CITY OF MALIBU LOCAL COASTAL PROGRAM

Local Implementation Plan

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Preface

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CHAPTER 1—TITLE, PURPOSE, AND GENERAL PROVISIONS

1.1. TITLE

The regulations contained in this article shall be known as and referred to as the "Local Implementation Plan of the City of Malibu Local Coastal Program".

1.2. PURPOSE

The purpose of this article is to implement the policies of the California Coastal Act of 1976, to carry out the policies of the City of Malibu Land Use Plan, and to:

A. Assure orderly, balanced utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of this City and of the State.

B. Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

C. Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

D. Provide a definite plan for development so as to guide the future growth of the City.

E. To protect and enhance the quality of the natural environment.

F. To promote the public health, safety and general welfare.

G. To ensure that any development in the coastal zone preserves and enhances coastal resources; and protects coastal views and access; and guides growth, development, and environmental management in a manner consistent with the provisions of the Land Use Plan of the Local Coastal Program.

H. To lessen congestion on the streets and provide for adequate off-street parking.

I. To prevent damage and injury from disasters such as fire, flood, tsunamis, tidal action ocean storms, geologic and seismic hazards and other dangers.

J. To provide adequate light and air, clean ground water, and non-polluting waste disposal.

K. To assure adequate public transportation, utilities, schools, parks, open space, roads and other public facilities and improvements.

L. To protect and preserve the areas, sites and structures of historic, cultural, archaeological and paleontological significance.

1.3. GENERAL PROVISIONS

1.3.1 Conflict with Other Provisions

If there is a conflict between a provision of the Malibu LCP and a provision of the General Plan, or any other City-adopted plan, resolution, or ordinance not included in the LCP, and it is not possible for the development to comply with both the LCP and such other plan, resolution or ordinance, the LCP shall take precedence and the development shall not be approved unless it complies with the LCP provision.

1.3.2 Severability

If any chapter, section, subsection, paragraph, sentence, clause, phrase or other portion of the Malibu Local Implementation Plan is for any reason held to be invalid or unenforceable by a court, such decision shall not affect the validity of the remaining portions of the Local Implementation Plan.

1.3.3 City of Malibu Municipal Code References

Where the City of Malibu LCP references a chapter or section of the City of Malibu Municipal Code, the version of the code cited is that which exists on September 13, 2002.

CHAPTER 2—DEFINITIONS

2.1. GENERAL DEFINITIONS

ADJUSTED REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) – the unmet very-low and low-income RHNA after crediting units by income category constructed during the current planning period.

AEROBICS/DANCE STUDIO - a private facility which conducts classes to groups of individuals generally in one room, and does not provide showers, pools, saunas, and other features of a full service health club.

AFFORDABLE HOUSING AGREEMENT – a legally binding agreement between an applicant and the City of Malibu to ensure that continued affordability of the Affordable Housing Units persists, and the units are maintained in accordance with Section 3.7 of the Local Implementation Plan.

AFFORDABLE HOUSING / AFFORDABLE RESIDENTIAL UNIT – a housing unit which is available for sale or for rent to moderate, low and/or very-low income households, as those terms are defined in this chapter.

AFFORDABLE HOUSING DEVELOPMENT - a multi-family residential development in which all of the affordable bonus units are affordable to low and moderate income households.

AFFORDABLE RENT – monthly rent charged to low and very-low income households for housing units as calculated in accordance with Section 50053 of the California Health and Safety Code.

AGGRIEVED PERSON - any person who, in person or through a representative, appeared at a public hearing of the City of Malibu or the California Coastal Commission in connection with the decision or action on a Coastal Development Permit application, or who, by other appropriate means prior to a hearing, informed the City of Malibu or the California Coastal Commission of the nature of his/her concerns or who for good cause was unable to do either. “Aggrieved person” includes the applicant for a Coastal Development Permit.

AGRICULTURAL EMPLOYEE - a person who works full or part-time (twenty-four (24) hours or more per week) in the service of a commercial agricultural operation.

AGRICULTURAL EMPLOYEE HOUSING – any living quarters or accommodations of any type specifically for agricultural employees and which comply with Health and Safety Code Sections 17008 and 17021.6 and other applicable provisions of the Employee Housing Act.

ALLEY - a public or private right-of-way less than forty feet (40′) wide which affords a means of vehicular access to the side or rear of properties abutting a street or highway.

ANCILLARY ROOM - a loft or other room (den, study or library, for example) not used as a bedroom and which:

A. Is substantially open to or overlooks another room (such as a living room, dining room, kitchen or master bedroom);

B. Serves as an extension of that adjoining room;

C. Shall not include a bathroom or any other plumbing, or closets; and

D. Due to its location, layout and/or amenities is not easily usable as an additional bedroom.

APARTMENT UNIT - one or more rooms with private bath and kitchen facilities comprising an independent rental unit.

APPEALABLE COASTAL DEVELOPMENT PERMIT - After certification of the Local Coastal Program an action taken by the City on a Coastal Development Permit application may be appealed to the California Coastal Commission for only the following types of developments:

1. Developments approved by the City between the sea and the first public road paralleling the sea or within three hundred feet (300′) of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

2. Developments approved by the City not included within paragraph 1 that are located on tidelands, submerged lands, public trust lands, within one hundred feet (100′) of any wetland, estuary, or stream, or within three hundred feet (300′) of the top of the seaward face of any coastal bluff.

3. Developments approved by the City not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

4. Any development which constitutes a major public works project or a major energy facility as defined in this Chapter. The phrase "major public works" or a "major energy facility" as used in Public Resources Code Sec. 30603(a)(5) and in these regulations shall mean: any proposed public works project or energy facility, as defined by Section 13012 of the Coastal Commission Regulations and the Coastal Act.

ARBOR - a shady garden shelter, typically covered with or formed of vines or other climbing plants.

ARCADE, GAME (PENNY) - any premises where there is maintained five or more games of skill or amusement whereby machines, contests, devices, games, tables, boards or amusements, the operation of which is permitted, controlled, obtained, conducted, allowed, authorized or made possible by the depositing of any coin, plate, disc, slug or key into any slot, crevice or other opening or receptacle, or by the payment of any fee or fees, and where said machine, contest, device, game, table, board or amusement tests, or provides a means for testing, the skill of the operator thereof with reference to its operation or the results thereof.

AREA DENSITY DIAGRAM - see FLOOR AREA RATIO.

AREA, NET - that portion of a lot or parcel of land which is:

1. Not subject to any easement or included as a proposed public or private facility such as an alley, highway or street or other necessary public site within a proposed development project;

2. Subject to an easement where the owner of the underlying fee has the right to use the entire surface except that portion where the owner of the easement may place utility poles or minor utility structures;

3. That portion of a corner lot or corner parcel of land not to exceed five percent (5%) of the net area within a corner cutoff.

Except as above provided, portions of a lot or parcel of land subject to a highway easement or any other private or public easement shall not be counted as a part of the net area.

ART GALLERY - a retail or wholesale establishment featuring exhibits and sale of art work including but not limited to drawings, paintings, sculptures, ceramics, photographs, and other art media.

ARTIST LOFT/STUDIO - A room or structure in which original works of art are created on site and, if living quarters for the artist are included, the living quarters do not exceed fifty percent (50%) of the square footage of the total studio space.

AUTHORIZED ENFORCEMENT OFFICER - the City Manager or his or her designee.

AUTOMOBILE SERVICE STATION - any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs and carburetors cleaning are conducted. Automobile services stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body and fender work are conducted.

AUTOMOTIVE SERVICE FACILITY - 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.

AWNING - a roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

BAR AND COCKTAIL LOUNGE - saloons, bars, cocktail lounges, nightclubs, pubs, discotheques, taverns and similar places used primarily for drinking and designed for social interaction and/or stage show entertainment.

BASEMENT - that portion of a building or an area enclosed by walls located below finished grade and beneath or partially beneath the first floor footprint above, where the vertical distance from finished grade to the bottom of the finished floor above is no more than 3 vertical feet at all points around the perimeter of all exterior walls. A basement does not constitute a story.

BED AND BREAKFAST INN - a facility offering transient lodging accommodations to the public and providing kitchen facilities adequate to provide meals to the guests of the facility only and not otherwise open to the public.

BEST MANAGEMENT PRACTICES (BMPs) - 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 BMPs 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 BMPs), among others.

BICYCLE PARKING SPACE - any permanently maintained bicycle rack or other similar device which is designed for the secure storage of a standard size bicycle.

BLUFF EDGE - For coastal and canyon bluffs, the bluff edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff, the bluff edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Where a coastal bluff curves landward to become a canyon bluff, the termini of the coastal bluff edge, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the coastal bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the canyon facing portion of the bluff. Five hundred feet (500′) shall be the minimum length of bluff line or edge to be used in making these determinations.

BOOKSTORE - any premises which has a substantial or significant portion of its stock in trade books, magazines, periodicals, pamphlets or newspapers.

BUILDING - any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials or any kind or nature.

BUILDING, ENCLOSED - a structure which is not open to the air for more than forty percent (40%) of its surface.

BULK - is the total interior cubic volume as measured from the exterior surface of the structure.

CALIFORNIA COASTAL ACT OR COASTAL ACT - is the California Coastal Act of 1976, Division 20 of the Public Resources Code, as amended.

CELLAR - any structure located entirely outside of the first floor footprint of a building, and located entirely below grade, except for an opening for pedestrian ingress and egress that shall have a minimum clear width of at least thirty (30) inches and a maximum clear width of forty-eight inches (48″).

CENTERLINE - where reference is made to the ‘centerline’ of any parkway, major or secondary highway, such centerline is deemed to be the centerline established by the County engineer for any proposed or dedicated public way which, in whole or in part, is included in any such parkway, major or secondary highway. The established centerlines are those shown on a series of maps entitled County Surveyor’s Maps or County Surveyor’s Field Maps on file in the office of the County engineer, except that where 2 or more such centerlines are shown on any

map in said series of maps, the centerline labeled 'proposed centerline' is deemed to be the centerline of the parkway, major or secondary highway.

CHANGE OF USE - a discontinuance of a use and the substitution of a different use.

CHAPTER THREE POLICIES are those policies of the Coastal Act contained in Chapter Three as amended, commencing with Section 30200, which constitute the standards by which the adequacy of Local Coastal Programs and the permissibility of proposed development subject to the provisions of the Coastal Act are determined.

CITY - the City of Malibu.

CITY COUNCIL - refers to the City Council of the City of Malibu.

CIVIC CENTER WASTEWATER TREATMENT FACILITY (CCWTF) - a public utility facility to be constructed in the Malibu Civic Center area in response to the prohibition on discharges from onsite wastewater treatment systems in order to provide centralized municipal wastewater treatment facilities to affected properties.

CLIFF - any high, very steep to perpendicular or overhanging face of rock, a precipice.

CLUB - a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

COASTAL BLUFF - a high bank or bold headland, ten feet (10′) or more in vertical extent, with a broad, precipitous, sometimes rounded cliff face overlooking a body of water.

COASTAL COMMISSION is the California Coastal Commission.

COASTAL DEPENDENT DEVELOPMENT OR USE - any development or use which requires a site on, or adjacent to, the sea in order to be able to function at all.

COASTAL DEVELOPMENT PERMIT - is a permit for any development or use within the coastal zone that is required pursuant to this Chapter and of subdivision (a) of the Coastal Act Section 30600.

COASTAL RESOURCES - include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

COASTAL ZONE - means the land and water area boundaries established by the State Legislature as defined in Coastal Act Section 30103.

COMMERCIAL AGRICULTURE - the growing of crops for food or fiber, or grazing or raising of livestock with the intent to sell the products for profit. Commercial agriculture does not include crops or agriculture grown for personal consumption or equestrian uses.

COMMERCIAL DEVELOPMENT - any development on private land that is not heavy industrial, institutional, or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes. For purposes of compliance with Chapter 17 of the LIP (Water Quality Protection Ordinance) only, "commercial development" shall include institutional development.

COMMERCIAL PARKING LOT OR BUILDING - a parking area or structure established or operated as a business, providing off street parking for a fee or charge.

COMMISSION - refers to the Planning Commission of the City of Malibu.

COMMON INTEREST DEVELOPMENT - any residential condominium, residential community apartment house, or residential stock cooperative.

COMMUNICATION EQUIPMENT BUILDING - a building housing operating electrical and mechanical equipment necessary for the conducting of a public utility communications business, with or without personnel.

COMPATIBLE - that which is harmonious with and will not adversely affect surrounding buildings and/or uses.

CONCESSIONS – regulatory allowances which include, but are not limited to, the reduction of site development standards or zoning code requirements, approval of mixed use zoning in conjunction with the Housing Development, or any other regulatory incentive which would result in an identifiable, financially sufficient, and actual cost reductions that are offered in addition to a density bonus.

CONDITIONS OF USE - a development standard determined to be necessary to permit the harmonious introduction of a use in a zone and therefore a prerequisite to place or maintain such use.

CONDOMINIUM - an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in an apartment building on such real property. A "condominium" may include, in addition, a separate interest in other portions of such real property.

CONDOMINIUM ASSOCIATION - the association which administers and maintains the common property and common elements of a condominium.

CONSERVATION COVER - establishing and maintaining perennial vegetative cover to protect soil and water resources on land retired from agricultural production.

CONVENIENCE STORE - any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5000 square feet.

CONVERSION – a change of a residential dwelling, including a mobile home, as defined in Section 18008 of the Health and Safety Code, or a mobile home lot in a mobile home park, as defined in Section 18214 of the Health and Safety Code, or a residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, to a condominium, cooperative, or similar form of ownership, or to a non-residential use.

COUNCIL - refers to the City Council of the City of Malibu.

COUNTY - refers to the County of Los Angeles.

COUNTY ENGINEER - refers to the County Engineer of the County of Los Angeles.

CRITICAL AREA PLANTING - 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.

CROP RESIDUE USE - using plant residues to protect cultivated fields during critical erosion periods.

DECK - an open porch or platform which projects more than 2 feet from the adjacent structure or is free-standing and at least 2 feet in width.

DEMOLITION - the deliberate removal or destruction of the frame or foundation of any portion of a building or structure for the purpose of preparing the site for new construction or other use.

DENSITY BONUS – a density increase for residential units over the otherwise allowed residential density under the applicable zoning and land use designation on the date an application is deemed complete.

DENSITY BONUS UNITS – those additional residential units gained pursuant to the provisions of the Density Bonus Ordinance.

DEVELOPMENT - means, on land, in or under water, the placement or erection of a solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; change in density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water; or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private or public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes; kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

DEVELOPMENT AREA - the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, and parking areas. If it is demonstrated that it is not feasible from an engineering standpoint to include all graded slopes within the development area, then graded slopes may be excluded from the approved development area. The area of one access driveway or roadway not to exceed twenty feet wide, and one hammerhead safety turnaround, as required by the Los Angeles County Fire Department not located within the approved building pad shall be excluded from the total development area. The fuel modification area required by the Los Angeles County Fire Department for approved structures may extend beyond the limits of the approved development area.

DISASTER - means any situation in which the force(s) which destroyed a structure were beyond the control of its owners.

DISCRETIONARY PROJECT - 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.

DIVERSION - a channel constructed across the slope with a supporting ridge on the lower side.

DOMESTIC ANIMAL - an animal which is commonly maintained in residence with humans.

DORMITORY - a building used as group living quarters for a student body in conjunction with a college, university, boarding school, orphanage or other similar institutional use.

DRIPLINE - a vertical line extending from outermost portion of a tree canopy to the ground.

DRY CLEANING ESTABLISHMENT - any premises, equipped to perform the service as defined in the California Business and Professions Code. A 'dry cleaning establishment' may include a dry cleaning agency, a retail or wholesale dry cleaning plant and dry cleaning, self-service or coin operated.

DRY CLEANING PLANT, RETAIL - a plant, the gross sales of which consist of at least fifty-one percent (51%) of direct sales to persons other than licensed dry cleaners.

DRY CLEANING PLANT, WHOLESALE - a plant, the gross sales of which consist of at least fifty-one percent (51%) of sales to licensed dry cleaners.

DWELLING, SINGLE-FAMILY - a building containing one dwelling unit constructed entirely onsite, or a unit constructed and/or assembled off-site, including mobile homes manufactured and certified under the National Mobilehome Construction and Safety Standards Act of 1974 and located on a permanent foundation system approved by the Building Department.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

DWELLING UNIT, EFFICIENCY - a dwelling unit consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities.

EASEMENT - a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EFFECTIVE DATE OF THE COASTAL ACT - is February 1, 1973 for areas subject to the California Coastal Zone Conservation Act and is January 1, 1977 for those areas identified as the Coastal Zone and subject to the California Coastal Act of 1976.

EFFECTIVE DATE OF THE MALIBU LOCAL IMPLEMENTATION PLAN - is September 13, 2002.

EMERGENCY - means a sudden unexpected occurrence demanding, immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

EMERGENCY COMMUNICATION AND SERVICE FACILITY - A structure whose primary purpose is for communication or communication-related service activity in support of emergency response activities. Such facilities are typically unmanned, and during emergencies are not used as centers for emergency personnel.

EMERGENCY SHELTER – housing with minimal supportive services for homeless persons, which is limited to occupancy of 6 months or less by a homeless person and is operated by a government agency or private non-profit organization.

EMPLOYEE HOUSING – means "employee housing" as defined in Health and Safety Code Section 17008.

ENCROACH - to conduct any development activity within the protected zone of a tree protected under section 5.2 or to intentionally damage any part of a protected tree or its root system, including but not limited to, burning, applying toxic substances, overwatering, operating machinery, paving, changing the natural grade, or excavating.

ENERGY FACILITY - any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

ENVIRONMENTALLY SENSITIVE HABITAT AREA (or ESHA) - is any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

EXCLUSIVE USE - means a use that precludes use in the area of the event for public recreation, beach access or access to coastal waters other than for or through the event itself.

EXECUTIVE DIRECTOR - is the Executive Director of the California Coastal Commission.

EXTREMELY-LOW INCOME (ELI) HOUSEHOLD – a household whose income does not exceed 30 percent (30%) of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50052.5 of the California Health and Safety Code.

FACADE - the exterior wall of a building exposed to the public view or that wall viewed by persons not within the building.

FAMILY - one or more individuals occupying a dwelling unit and living as a single household.

FEASIBLE - means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

FENCES, WALLS AND HEDGES - artificially constructed barriers of any material or combination of materials erected to enclose or screen an area of land. See also OPEN FENCING.

FILL - any earth or material or substance, including pilings, placed for the purposes of erecting structures thereon, placed in a submerged or upland area.

FILTER STRIP - a strip or area of vegetation for removing sediment, organic matter, and other pollutants from runoff and wastewater.

FIRST PUBLIC ROAD PARALLELING THE SEA or FIRST PUBLIC ROAD - shall mean that road nearest the sea, as defined in this Section, and which meets all of the following criteria:

1. The road is lawfully open and suitable for uninterrupted use by the public;

2. The road is maintained by a public agency;

3. The road contains an improved all-weather surface open to motor vehicle traffic in at least one direction;

4. The road is not subject to any restrictions on use by the public except during an emergency or for military purposes; and

5. The road connects with other public roads providing a continuous access system and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

FLAG, OFFICIAL - an official flag of the United States of America and other nations, states, countries, or municipalities.

FLOOR AREA, GROSS - the sum of the gross horizontal areas of the several floors of a building measured from the interior face of exterior walls, or from the centerline of a wall separating 2 buildings, but not including interior parking spaces, loading space for motor vehicles, vehicular maneuvering areas, or any space where the floor-to-ceiling height is less than 6 feet.

FLOOR AREA RATIO - the formula for determining permitted building area as a percentage of lot area; obtained by dividing the above-ground gross floor area of a building or buildings located on a lot or parcel of land by the total area of such lot or parcel of land.

FRONTAGE, BUILDING - the exterior building wall of a ground floor business establishment on the side or sides of the building fronting and/or oriented toward a public street or highway. 'Building Frontage' shall be measured continuously along said building wall for the entire length of the building establishment, including any portion thereof which is other than parallel to the remainder of the wall.

FRONTAGE, PRIMARY COMMERCIAL - the portion of a commercially zoned lot which parallels the block face which contains the greatest amount of commercial zoning.

FRONTAGE, STREET - that portion of a lot or parcel of land which borders a public street. 'Street Frontage' shall be measured along the common lot line separating said lot or parcel of land from the public street, highway or parkway.

GAME ROOM or GAMING AREA - an area designated exclusively for customer participation entertainment providing gaming, pool tables, pinball machines, etc.

GARAGE - a deck, building, structure or part thereof, used or intended to be used for the parking and storage of motor vehicles.

GARAGE SALE - any sale held for the purpose of selling, trading or otherwise disposing of unwanted household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted in a residential zone.

GARAGE, SEMI-SUBTERRANEAN - a structure used for parking and storage of vehicles located partly underground with the finished floor of the first level of the structure averaging not more than fifty percent (50%) above the average natural or existing grade of the parcel, except for openings for ingress and egress.

GARAGE, SUBTERRANEAN - that portion of a building or an area enclosed by walls, used for parking and storage of vehicles, which is located below finished grade and beneath or partially beneath the first floor footprint above, where the vertical distance from finished grade to the bottom of the finished floor above is no more than 3 vertical feet at all points around the perimeter of all exterior walls, except for that portion of the wall with the opening for vehicular ingress and egress. A subterranean garage does not constitute a story.

GEOTECHNICAL HAZARD - soils or geologic conditions that could adversely affect the safety of the building site in accordance with the current Building Code.

GOOD HOUSEKEEPING PRACTICES - common practices related to the storage, use, or cleanup of materials, performed in a manner that minimizes the discharge of pollutants. Examples include, but are not limited to, purchasing only the quantity of materials to be used at a given time, use of alternative and less environmentally harmful products, cleaning up spills and leaks, and storing materials in a manner that will contain any leaks or spills.

GRADE (finished) - the finished ground level around the perimeter at all exterior walls of a building.

GRADE (ground level) - the natural or finished ground level at all walls of a building, whichever results in a lower building height. In cases where walls are parallel to and within five feet of sidewalks, the above ground level shall be measured at the sidewalks.

GRADING PROJECT, OFF SITE TRANSPORT - any excavation or fill, or combination thereof, necessary and incidental to impending building construction or other lawful development which will require the removal from, or importation to, a lot or parcel of land more than 5,000 cubic yards of dirt, soil, sand, gravel, rock, clay, decomposed granite or other minerals along a transport route having more than ten (10) occupied dwelling units in single or two family residences, apartment houses, mobile homes or any combination thereof, or having a hospital or an accredited public or private school offering instruction required to be taught by the Education Code of the State of California, located within a parallel corridor two hundred (200) feet wide on each side of and measures from the edge of the existing right-of-way for a distance equal to the extent of such route of for a distance of 2,640 feet, whichever distance is less. 'Impending building construction or development' shall mean the initiation of such construction or development within one year.

GRADE PROJECT, ON SITE - any excavation or fill, or combination thereof, requiring a grading permit under the provisions of Chapter 1 of Article VIII (Building Code) of this Code which will involve a volume of earth greater than 50,000 cubic yards, whether filed as one permit or the cumulative total of more than one permit on the same lot or parcel of land within a one-year period.

GRAND OPENING - an advertising event which has as its purpose, the promotion of a newly opened use, a change in the orientation of a use or reopening of a use following remodeling or major renovation.

GRASSED WATERWAY - a natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

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

GROUND FLOOR - the first floor of a building other than a cellar or basement.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area.

HABITABLE FLOOR AREA - see LIVING AREA.

HANDICAPPED ACCESSIBLE UNIT - a building or portion of a building containing one dwelling unit, intended or used for the sole occupancy of not more than 2 persons at any time, one of whom is physically or mentally disabled.

HEALTH CARE FACILITIES - any facility, place, or building maintained and operated to provide medical care. Health care facilities include but are not limited to hospitals, intermediate care facilities, clinics, and home health agencies, all of which are licensed by the State of California Health and Human Services Agency. Health care facilities do not include residential care facilities for the elderly.

HEALTH CLUB - means but is not limited to gymnasiums (except public), private clubs (athletic, health or recreational), with full service facilities including but not limited to showers, lockers, pools and saunas.

HEDGES - see FENCES.

HEIGHT, BEACHFRONT LOT - the vertical distance from the lowest recommended finish floor elevation on the ocean side (as defined by a licensed civil engineer, based upon a comprehensive wave action report) and the vertical distance as measured from the centerline of the road on the land side, apportioned such that the height of the portion of the building measured from the centerline of the road is no more than half of the total length (front-to-rear) of the structure.

HEIGHT, NON-BEACHFRONT LOT - the vertical distance between the top of the structure and finished or natural grade, whichever results in a lower building height. (See GRADE)

HELIPORT - any helicopter landing area used, designed or intended to be used for the receiving or discharging of passengers and cargo and shall include any appurtenant facilities for passengers, cargo, or for the servicing, repair, shelter or storage of helicopters.

HELISTOP - any helicopter landing area used, designed or intended to be used for the receiving or discharging of passengers and cargo, but shall not include other appurtenant facilities permitted at a heliport other than a shelter for passengers.

HIGH INTENSITY USE - commercial uses whose activities could adversely impact adjacent residences, schools, or other uses; such as alcohol sales, gasoline stations, automobile and truck repair and parts, twenty-four (24) hour markets, carry out food establishments, entertainment (nightclubs, concert halls, dance clubs, etc.), video arcades, restaurants and bars, and adult businesses.

HIGH OCCUPANCY FACILITIES - all buildings with assembled occupancies of one hundred (100) or more persons.

HILLSIDE - property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five percent (25%) or greater.

HOMELESS SHELTER – see EMERGENCY SHELTER.

HOME OCCUPATION - any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

HOSPICE - see RESIDENTIAL CARE FACILITY.

HOSPITAL - any institution, place, building or agency licensed by the Departments of Public Health, or Mental Hygiene of the State of California, which maintains and operates organized facilities for the diagnosis, care and treatment of human illness, including convalescence, and includes sanitarium, sanitorium, convalescent home, nursing home and maternity home.

HOSPITAL, SMALL ANIMAL - any facility providing medical or surgical treatment, clipping, bathing or other services, including incidental boarding to dogs, cats and other animals.

HOTEL - a facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants and meeting rooms.

HOTEL ROOM - a unit or room in a hotel or motel, used for transient purposes and not the principal place of residence of the occupant(s).

HOUSEHOLD - a family living together in a single dwelling unit, with a common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

HOUSING DEVELOPMENT – a development project for five or more residential units. Within the Density Bonus Ordinance, it shall also include a subdivision or common interest development, a project which rehabilitates and converts a commercial building to a residential use and a condominium conversion of an existing multi-family building.

ILLEGAL NONCONFORMING BUILDING OR USE - a building or use that does not conform to one or more of the provisions of the Malibu Zoning Ordinance and did not lawfully exist on the effective date of applicable chapters of the Malibu Zoning Ordinance.

INCENTIVES – see CONCESSIONS.

INCIDENTAL USE - a use which is secondary to the primary use of a property and which does not intensify the use.

INITIAL SUBSIDY – the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value (e.g. X (fair market value of the home to be purchased) – Y (the price the moderate income household paid for the home) + Z (amount of any down payment assistance) = Initial Subsidy).

INFILL DEVELOPMENT - shall apply to a situation where construction of a single-family dwelling and/or a duplex in limited situations on a vacant lot or the demolition of an existing residential dwelling and construction of a new dwelling is proposed in an existing, geographically definable residential community which is largely developed or built out with similar structures. When applied to beach front development this situation consists of an existing linear community of beach fronting residences where the vast majority of lots are developed with residential dwellings and relatively few vacant lots exist. Infill development can occur only in instances where roads and other services are already existing and available within the developed community or stretch of beach. Infill development shall not apply to the construction of a shoreline protection device.

INFILL LOT, RESIDENTIAL ZONE - lot where at least eighty percent (80%) of the legal lots within a three hundred foot (300′) radius of the subject lot, but in no event less than ten (10) lots, are developed with a residential structure. “Infill Development” shall apply to a situation where construction of a single-family dwelling and/or duplex in limited situations on a vacant lot or the demolition of an existing residential dwelling and construction of a new dwelling is proposed in an existing, geographically definable residential community which is largely developed or built out with similar structures. When applied to beachfront development, this situation consists of an existing linear community of beach fronting residences where the vast majority of lots are developed with residential dwellings and relatively few vacant lots exist. Infill development can occur only in instances where roads and other services are already existing and available within the developed community or stretch of beach. Infill development shall not apply to the construction of a shoreline protective device.

INFILTRATION - the downward entry of water into the surface of the soil.

INSTITUTIONAL DEVELOPMENT - any development on public or private land that is intended for public and quasi-public uses and facilities such as emergency communications and services, libraries, museums, maintenance yards, educational (private and public) and religious institutions, community centers, parks and recreational facilities, and governmental facilities including police and fire stations.

INTENSIFICATION OF USE - a change of use, degree of use or increase in size (area) of a use.

KENNEL - an establishment in which three or more dogs or domesticated animals more than four months old are housed, groomed, bred, boarded, trained, or sold.

KITCHEN - a room or space within a building intended to be used for the cooking and preparation of food.

LAND DIVISION - includes subdivisions (through parcel map, tract map, grant deed or any other method), lot line adjustments, redivisions, mergers and certificates of compliance (except as provided in LUP Policy 5.40).

LIFE OF THE PROJECT - shall be one hundred (100) years.

LIMITED DURATION - a period of time which does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis;

LIMITED EQUITY COOPERATIVE - a corporation organized pursuant to the California Health and Safety Code and the California Business and Professionals Code.

LIVING AREA - the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or accessory structures.

LOFT - see MEZZANINE.

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.

LOT AREA - the total area within the lot lines of a lot, excluding any street rights of way.

LOT, CORNER - a lot or parcel of land situated at the intersection of to or more parkways, highways or streets, which parkways, highways or streets have an angle or intersection measured within said lot or parcel of land of not more than one hundred thirty-five (135) degrees.

LOT, FLAG - a lot or parcel of land taking access by a strip, owner of which lot or parcel of land has fee-simple title to said strip extending from the main portion of the lot or parcel of land to the adjoining parkway, highway or street.

LOT, INTERIOR - a lot or parcel of land other than a corner or flag lot.

LOT, KEY - an interior lot adjoining the rear lot line of a reversed corner lot.

LOT LINE - a boundary line of a lot or a parcel of land.

LOT LINE, FRONT - a line separating the front yard from the parkway, highway or street upon which the yard fronts; or, in the case of a flag lot where the front yard is oriented toward an adjoining lot, the line separating such front yard from said adjoining lot.

LOT LINE, REAR - a lot line which is opposite and most distant from the front lot line. For a triangular or gore-shaped lot the rear lot line shall mean a line ten (10) feet in length within the lot which is parallel to the front lot line, or parallel to the chord of a curved front lot line, and at the maximum distance from the front lot line.

LOT LINE, SIDE - any lot boundary line which is not a front lot line, or a rear lot line.

LOT, REVERSED CORNER - a corner lot, the parkway, highway or street side of which is substantially a continuation of the front lot line of a lot or parcel of land which adjoins the rear lot line of said lot.

LOT, THROUGH - a lot having frontage on two parallel or approximately parallel parkways, highways and/or streets.

LOW INCOME HOUSEHOLD – a household whose income does not exceed eighty (80) percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50079.5 of the California Health and Safety Code.

LOWER INCOME HOUSEHOLDS – include persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. Lower income households include Very-Low Income Households, as defined in Section 50105 of the California Health and Safety Code, and Extremely-Low Income Households, as defined in Section 50106 of the California Health and Safety Code.

MAJOR PUBLIC WORKS AND MAJOR ENERGY FACILITIES - facilities that cost more than one hundred thousand dollars ($100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624. Notwithstanding the criteria above, “major public works” also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

MANAGER - refers to the Planning Manager of the City of Malibu or his/her designated appointee.

MANUFACTURING - manufacturing activities include apparel and other garment products, furniture and fixtures, printing both commercial and industrial, leather products, pottery, glass blowing and the measuring, analyzing, and controlling instruments, photographic, medical and optical goods and the like.

MATERIAL - any substance including, but not limited to: garbage and debris; lawn clippings, leaves, and other vegetation; biological and fecal waste; sediment and sludge; oil and grease; gasoline; paints, solvents, cleaners, and any fluid or solid containing chemicals.

MEZZANINE - an intermediate level without walls or partitions, placed in any story or room and open to the space below. When the total of any such mezzanine floor exceeds thirty-three and one third (33-1/3) percent of the total floor area in that room, it shall constitute an additional story. The clear height above or be-

low a mezzanine floor shall not be less than 7 feet. No more than one continuous mezzanine may be permitted in any one room. A loft shall be considered a mezzanine.

MOBILE HOME PARK means any area or tract of land where one or more mobile home spaces are rented or leased or held out for rent or lease to accommodate mobile homes used for human habitation.

MOBILE HOME SPACE means any area designated, designed or used for the occupancy of one mobile home on a temporary, semi-permanent or permanent basis.

MODERATE INCOME HOUSEHOLD – a household whose gross income does not exceed one hundred twenty percent (120%) of the area median for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Sections 50079.5 and 50052.5 of the California Health and Safety Code.

MOTEL - A facility offering transient lodging accommodations to the public in a group of attached or detached buildings containing guest rooms, some or all of which have a separate entrance leading directly from the outside of the building to automobile parking space conveniently located on the lot or parcel of land, does not provide accessory uses such as restaurants or meeting rooms, and not otherwise open to the public.

MOTOR VEHICLE REPAIR FACILITIES - the use of any building, premises or land in which or upon which the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

MOTOR VEHICLE SALES FACILITIES - the use of any building, premises or land for the display and sale and/or lease of new or used automobiles, light trucks, vans, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.

MOTOR VEHICLE WASHING FACILITY - any building or premise or portion thereof used for washing motor vehicles.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by two or more families living independently of each other and containing three or more dwelling units.

MUNICIPAL NPDES PERMIT - the “Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles” (Order No. 01-182), dated December 13, 2001, issued by the California Regional Water Quality Control Board-Los Angeles Region, and any successor permit to that permit.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4 or STORM DRAIN SYSTEM - streets, gutters, conduits, natural or artificial drains, channels and watercourses, or other facilities that are owned, operated, maintained or controlled by the City and used for the purpose of collecting, storing, transporting, or disposing of storm water.

NARROW RESIDENTIAL LOT - any residentially zoned lot with a width of forty feet (40') or less.

NEIGHBORHOOD-SERVING CONSTRUCTION SERVICES - Construction service companies including, but not limited to, paving, electrical, painting and plumbing contractors which provide construction support services primarily to local residents and business owners. Ancillary uses of such businesses may include outdoor storage and maintenance of equipment and materials used in the course of normal business operations.

NEW DEVELOPMENT - For the purpose of this Chapter "New Development" is defined to mean land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

For purposes of implementing the public-access requirements of Public Resources Code Section 30212 and of this chapter, "new development" includes "development" as defined above except for the following:

(a) Structures destroyed by natural disaster: The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent (10%), is sited in the same location on the affected property as the destroyed structure and does not extend the replacement structure seaward on a sandy beach or beachfronting bluff lot. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

(b) Demolition and reconstruction: The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent (10%), that the reconstructed residence shall be sited in the same location on the affected property as the former structure, that the reconstructed residence does not block or impede public access, that the reconstructed residence does not extend seaward of the demolished residence on a sandy beach or beachfronting bluff lot and that the reconstructed residence does not include or necessitate a shoreline protective device.

(c) Improvements: Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, which do not result in a seaward encroachment by the structure and which do not include or necessitate a new or enlarged shoreline protective device.

(d) Repair and maintenance: Repair or maintenance activity which, pursuant to Public Resources Code Section 30610(d) and California Code of Regulations Section 13252, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.

(e) Reconstruction and/or repair of a seawall, revetment, retaining wall or other shoreline protective device: The reconstruction or repair of any shoreline protective device; provided that the reconstructed or repaired shoreline protective device does not substantially alter the foundation of the protective device, does not result in the replacement of twenty percent (20%) or more of the materials of the existing structure with materials of a different kind, does not extend the protective device seaward of the loca-

tion of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to public access or other shoreline resources than those of the existing structure.

NIGHTCLUBS - any bar, cocktail lounge, discotheque, restaurant, or similar activity which includes alcoholic beverage service, dancing and/or entertainment, whether such activity is the principal business use or incidental to a primary use.

NON-PERMANENT STRUCTURES - include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, movie/film sets, etc., which do not involve grading or landform alteration for installation

NON-STORM WATER DISCHARGE - any discharge to a Municipal Separate Storm Sewer System that is not composed entirely of storm water.

NPDES PERMIT - any waste discharge requirements issued by the Regional Board or the State Water Resources Control Board as an NPDES Permit pursuant to Water Code §§ 13370 (other than the Municipal NPDES Permit).

NURSERY SCHOOL - a school of pre-elementary school age children which provides controlled activities and/or instruction.

NURSING HOME - a facility licensed to provide full-time convalescence or care for persons with chronic illness or infirmity, or who are unable to care for themselves.

ONSITE - any activity or item that is located on the lot which is the subject of discussion.

OPEN FENCING - a barrier constructed of material which is transparent, such as glass or plastic panels, or wrought iron or other solid material which is ninety percent (90%) open to light and air. See also OPEN/PERMEABLE, NON-VIEW OBSCURING.

OPEN/PERMEABLE, NON-VIEW OBSCURING - fencing constructed of material which is transparent, such as glass or plastic panels, or wrought iron or other solid material which is ninety percent (90%) open to light and air.

ORCHARD - an area of land devoted to the cultivation of fruit or nut trees.

OUTDOOR DINING - that portion of any restaurant or other eating establishment where seating is provided and food and/or beverages are served, on public or private property, where there is not a roof and walls on all sides of the seating area.

OUTDOOR STORAGE - the keeping in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

PARKING LOT - 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.

PASSIVE RECREATIONAL USE - any activity normally associated with beach use including, but not limited to, walking, jogging, swimming, sunbathing, picnicking, fishing, and surfing. This does not include use of the beach for organized sports activities, temporary events, or vehicular access, except for emergency or maintenance purposes.

PERMIT - any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of this division.

PERMITTED USE - any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON - any individual, firm, copartnership, partnership of any kind, joint venture, association, social club, fraternal organization, domestic or foreign corporation, estate, trust, business trust, receiver, syndicate, joint stock company, this and any other county, city and county, municipality, district or other political subdivision, or any other group or combination thereof.

PERSONAL SERVICES - a business which provides a service, such as a beauty salon, a barber shop, hair, nail, massage services and tanning salons.

PHILANTHROPIC, CHARITABLE OR EDUCATIONAL NON-PROFIT ACTIVITY - any activity of a non-commercial, non-political, and non-profit making nature.

PLANNING COMMISSION - refers to the Planning Commission of the City of Malibu.

PLANNING VERIFICATION - a ministerial verification by the Building or Planning Departments to determine for purposes of reconstruction the physical specifications of a structure destroyed or damaged by fire, earthquake, act of war or other calamity.

POLLUTANT - those “pollutants” defined in Section 502(6) of the federal Clean Water Act (33 U.S.C. § 1362(6)) and incorporated by reference into California Water Code § 13373.

PRIMARY BUILDING - the main building or structure in which the principal use of the lot on which it is situated is conducted, as distinguished from a secondary or accessory building or structure.

PRIMARY USE - a principal or dominant use established, or proposed to be established, on a lot or parcel of land, as distinguished from a secondary or accessory use.

PROCESSING - a series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner.

PROFESSIONAL OFFICE - the office of a member of a recognized profession maintained for the conduct of that profession.

PROPERTY LINE - the recorded boundary of a parcel of land.

PROPORTIONATE SHARE OF APPRECIATION – the ratio of the local government's Initial Subsidy as defined to the fair market value of the home at the time of initial sale (e.g. X (*initial subsidy*) / Y (*fair market value*) = Proportionate Share of Appreciation).

PROTECTED ZONE of a tree protected under Section 5.2 of the Malibu LIP shall mean that area within the dripline of the tree and extending at least five feet beyond the dripline, or 15 feet from the trunk of the tree, whichever is greater.

PUBLIC TRUST LANDS - all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public trust lands include: tidelands, submerged lands, beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time.

PUBLIC UTILITY SERVICE CENTER - any buildings or premises used for the administration of public utility repair, maintenance and installation crews, including parking for vehicles not to exceed two tons rated capacity, but not including warehouses or storage yards.

PUBLIC UTILITY SERVICE YARD - any building or premises used for the office, warehouse, storage yard or maintenance garage of a public utility, including microwave repeater stations when incorporated as a part of the service yard use.

PUBLIC VIEWING AREA - a location along existing scenic public roads and trails or within public parklands or beaches where there are scenic views of the beach and ocean, coastline, mountains, ridgelines, canyons and other unique natural features or areas.

PUBLIC WORKS - includes the following:

1. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

3. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

4. All community college facilities.

QUALIFYING RESIDENT – a person sixty-two (62) years of age or older, or fifty-five (55) years of age or older in a senior citizen housing development, as defined in Section 51.2 of the California Civil Code.

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

RECREATION CLUB, COMMERCIAL - a commercial enterprise offering the use of indoor or outdoor recreational facilities to the public.

RECREATION CLUB, PRIVATE - an association of persons who are bona fide members, paying regular dues, and organized to provide indoor or outdoor recreational facilities for members and their guests, but not including an association organized primarily to render a service customarily carried on as a commercial enterprise.

RECREATION FACILITIES, NEIGHBORHOOD - indoor and outdoor recreation facilities established by an association of persons who are bona fide members and operate as a nonprofit corporation to provide outdoor recreation facilities for residents in the immediate vicinity and their guests. Such facilities may include a clubhouse, changing rooms and similar subordinate facilities in conjunction with the outdoor recreation activity, but shall not include a restaurant or bar.

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.

REGIONAL BOARD - the California Regional Water Quality Control Board-Los Angeles Region.

REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) - the projected housing need by income category for the current planning period pursuant to Government Code Section 65583.2(h), as adopted by the Southern California Association of Governments in accordance with Government Code Section 65584.

RELIGIOUS FACILITIES - churches, temples, or other places used exclusively for religious worship, including customary incidental educational, residential and social activities in conjunction therewith.

REMEDIAL GRADING - grading recommended by a California Licensed Geologist that is necessary to mitigate a geotechnical hazard on a site (including access driveways), such as: (1) repair of a landslide; (2) over-excavation of a building site to remediate expansive or compressible soils; and/or (3) altering a building pad to improve site stability (usually by removing materials and lowering finish grade).

REMODEL - the upgrade of the interior or exterior faces of a building or structure without altering the existing foundation, footprint or building envelope. Remodeling may include the replacement of exterior walls within

the limitations described herein and according to the requirements of the Building Code provided that such remodeling can meet the standards for zone clearance or plot plan review.

RESEARCH AND EDUCATION - when used as a permitted use, refers to scientific, teaching, and learning activities consistent with preservation of the resources subject to the research and educational purpose.

RESIDENTIAL CARE FACILITY FOR THE ELDERLY - a housing arrangement chosen voluntarily by persons sixty (60) years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as provided in California Health and Safety Code Section 1569.2, as the same may be amended from time to time.

RESIDENTIAL CARE FACILITY, LARGE – any family home or group care facility serving 7 or more persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual, excluding jails or other detention facilities.

RESIDENTIAL CARE FACILITY, SMALL - any family home or group care facility serving 6 or fewer persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual, excluding jails or other detention facilities.

RESIDENTIAL COMMUNITY APARTMENT HOUSE - a residential complex in which an undivided interest in the land either in fee simple or a term of years, is coupled with the right of exclusive occupancy in an apartment located therein.

RESIDENTIAL CONDOMINIUM - an estate in real property consisting of an undivided interest in common in a parcel of real property together with a separate interest in space in a residential complex located on such real property. A residential condominium may include, in addition, a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either: (1) an estate of inheritance or perpetual estate; (2) an estate for life; or (3) an estate for years, such as a leasehold or a subleasehold.

RESIDENTIAL STOCK COOPERATIVE - a residential complex which is owned, or is to be owned, by a corporation ("cooperative housing corporation") which is formed or availed of primarily for the purpose of holding title to, either in fee simply or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share of shares of stock or memberships in the corporation held by the person having such right of occupancy.

RESTAURANT - a stand-alone facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. (SIC code 5812).

RESTAURANT, CARRY OUT - any restaurant with prepared food or quickly cooked food for consumption onsite at provided seats and tables or for take out. Such restaurants are characterized generally by a limited menu, disposable wrapping for food and rapid turnover in customers.

RESTRICTED UNIT –a dwelling unit that is affordable to very-low, low-, and moderate-income persons.

RETAIL GASOLINE OUTLET - any facility engaged in selling gasoline and lubricating oils.

RIDGELINE, PRIMARY - a hill, ridge or promontory which drops on either side of the top of this landform feature, and includes at least one of the following conditions: (1) forms a distinct part of the skyline when viewed from a public street or highway; or (2) is seen as a distinct and prominent edge against a backdrop of land at least five hundred feet (500′) behind it when viewed from a public street and contains an average slope of at least 3:1.

RIDGELINE, SECONDARY - a hill, ridge, or promontory other than a primary ridgeline, but on which the elevation drops more than ten feet (10′) in one hundred feet (100′) horizontally on either side of the top of this landform feature.

ROOM - an enclosed area which is designed, used or intended to be used as sleeping accommodations for any person(s), and which does not contain a bar sink and/or gas/electrical or water outlets designed, used or intended to be used for cooking facilities except as otherwise specifically provided by the Malibu Zoning Ordinance.

ROOM, GUEST - one which is designed, used or intended to be used as a temporary sleeping accommodations for any person, and which does not contain a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except as otherwise specifically provided by the Malibu Zoning Ordinance.

SANDY BEACH AREA - includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

SCENIC AREA - places on, along, within, or visible from scenic public roads, trails, beaches, and parklands that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features or areas.

SCENIC ROAD - those public roads within the City that traverse or provide views of areas with outstanding scenic qualities, that contain striking view of natural vegetation, geology, and other unique natural features, including the mountains, canyons, ridgelines, beach and ocean.

SCHOOL - any building or part thereof which is designed, constructed or used for education or instruction, whether public or private, in any branch of knowledge.

SEA - the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

SEA CLIFF - a cliff or slope produced by wave action, situated at the seaward edge of the coast or the landward side of the wave-cut platform, and marking the inner limit of beach erosion.

SECOND UNIT - an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A second unit may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area.

SEDIMENT BASIN - a basin constructed to collect and store debris or sediment.

SENIOR CITIZEN HOUSING DEVELOPMENT – a residential development developed, substantially rehabilitated or renovated, and having at least thirty-five (35) dwelling units for senior citizens in compliance with the requirements of Sections 51.3 and 51.12 of the California Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Sections 798.76 or 799.5 of the California Civil Code.

SENSITIVE FACILITIES - those facilities which may by nature of their occupants be inhibited in their rapid evacuation capabilities, such as nursing homes, senior citizens' housing and other low-mobility uses; and commercial and industrial facilities containing hazardous materials or potentially hazardous operations requiring safe shut-down procedures.

SETBACK - the distance between the parcel line and a building not including permitted projections.

SHADE STRUCTURE - a structure with a temporary or permanent roof or a covering made of or supporting plants or vines which is designed to provide shelter from the heat or glare of the sunlight.

SHALLOW RESIDENTIAL LOT - any residentially zoned lot with a depth of one hundred feet (100') or less.

SINGLE-ROOM OCCUPANCY FACILITY – a structure that provides living units that have separate sleeping areas and may have private or some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents.

SINGLE-ROOM OCCUPANCY UNIT – a room that is used, intended or designed to be used by no more than two persons as a primary residence, but which lacks either or both a self-contained kitchen or bathroom.

SITE COVERAGE - the horizontal area measured at the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

SITE DESIGN BMP - any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime.

SOURCE CONTROL BMP - any schedule of activities, prohibition of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

SPECIAL EVENT - a significant occurrence or happening which is arranged for a particular occasion or purpose.

STAND - a structure for the display and sale of products with no space for customers within the structure itself.

STANDARD URBAN STORM WATER MITIGATION PLAN or SUSMP - the Standard Urban Storm Water Mitigation Plan (SUSMP) approved by the Los Angeles Regional Water Quality Control Board on March 8, 2000, and any updates or amendments approved thereafter by the Los Angeles Regional Water Quality Control Board.

STORM WATER MANAGEMENT PLAN - a plan which shall be required in connection with any new development for the purposes of construction erosion control, runoff detention to control runoff rate to predevelopment levels, and runoff retention or other treatment measures to prevent dry-weather pollution from entering the storm drain system.

STORM WATER RUNOFF - that part of precipitation (rainfall or snowmelt) which travels via flow across a surface to the Municipal Separate Storm Sewer System or receiving waters from impervious, semi-pervious or pervious surfaces. When all other factors are equal, runoff increases as the perviousness of a surface decreases.

STORY - that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the roof above. A basement shall not be considered a story if the finished first floor does not exceed 3 feet above the average natural grade of the parcel. An unfinished attic shall not be considered a story. A mezzanine shall be considered a story if it is not open to the floor below, if it contains any enclosed rooms, bathrooms, closets, and the like, or if it contains more than 33-1/3% of the total floor area of the room(s) onto which it opens.

STREAM - is a topographic feature that at least periodically conveys water through a bed or channel having banks. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

STREET - a public or private right-of-way, major or secondary highway or alley, whose function is to carry vehicular traffic and/or provide vehicular access to abutting property.

STRINGLINE RULE - a development standard used to establish beachfront structure setbacks.

STRUCTURAL BMP - any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g., canopy, structural enclosure). Structural BMPs may include both Treatment Control BMPs and Source Control BMPs.

STRUCTURE - anything construed or erected which requires a fixed location on the ground, or is attached to a building or other structure having a fixed location on the ground.

SUBMERGED LANDS - all lands that lie below the line of mean low tide.

SUPPORTIVE HOUSING – a building or buildings configured as rental housing development with no limit on length of stay, that is occupied by a "target population", and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

TARGET POPULATION – persons or families who are "homeless" (as that term is defined by Section 11302 of Title 42 of the United State Code), or who are "homeless youth" (as that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code). Individuals and families currently residing in supportive housing meet the definition of "target population" if the individual or family was "homeless" as that term is defined by Section 11302 of Title 42 of the United States Code, when approved for tenancy in the supportive housing project in which they currently reside.

TEMPORARY EVENT - is: (1) an activity or use that constitutes development as defined in Section 30106 of the Coastal Act but which is an activity or function which is or will be of limited duration and involves the placement of non-permanent structures such as bleachers, vendor tents/canopies, portable toilets, stages, film sets, etc., and/or involve exclusive use of sandy beach, parkland, filled tidelands, water, streets, or parking areas in temporary facilities, public or private buildings or open spaces, or outside of buildings which are otherwise open and available for general public use; or (2) an activity as defined in section (1) that involves any commercial component such as: admission fee, renting of facility, charging for valet parking or shuttle service and/or public advertising.

TEMPORARY STRUCTURE - a structure without any foundation or footings, and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TERRACE - an earthen embankment, a channel, or combination ridge and channel constructed across the slope.

THEATER - an enclosed building used for public assembly and/or entertainment, including sports events, theatrical performances, concerts and recitals, circuses, stock shows and conventions. This definition shall include auditorium.

TIDELANDS - all lands which are located between the lines of mean high tide and mean low tide.

TOTAL DEVELOPMENT SQUARE FOOTAGE - the calculation of the interior space of the primary and accessory structures (including interior and exterior walls). Accessory structures shall include, but are not limited to, guest houses, garages, barns, sheds, gazebos, cabanas. Decks, terraces and balconies shall not be included in total square footage calculations when they are a part of a primary or accessory structure and are open on all sides.

TRANSITIONAL HOUSING – a building or buildings configured as rental housing development occupied by the "target population", but operated under program requirements that call for termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future

point in time, which shall be no less than six months. Transitional housing is a residential use subject only to the same regulations and procedures that apply to other residential uses of the same type in the same zone.

TREATMENT - the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media adsorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

TREATMENT CONTROL BMP - any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

TREE - a plant having at least one well defined stem or trunk and normally attaining a mature height of at least fifteen feet (15′), and having a trunk that shall be kept clear of leaves and branches at least six feet (6′) above grade at maturity.

TREE, 15-GALLON - a fifteen (15) gallon container tree shall be no less than one inch caliper and at least six feet (6′) in height above grade at the time of planting.

TREE, 24-INCH BOX - a twenty-four inch (24″) box tree shall be no less than one and three quarters inch (1-3/4″) caliper and at least seven feet (7′) in height above grade at the time of planting.

TREE REMOVAL - the destruction or displacement of a tree by cutting, bulldozing, or other mechanical or chemical method which results in physical transportation of the tree from its site and/or death of the tree.

TRELLIS - A frame supporting open latticework, typically used for training vines and other climbing plants.

UPLAND LIMIT OF A WETLAND - is: (1) the boundary between land with predominately hydrophytic cover and land with predominately mesophytic or xerophytic cover; (2) the boundary between soil that is predominately hydric and soil that is predominately nonhydric; or (3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

URBAN RUNOFF - surface water flow produced by non-storm water resulting from residential, commercial, and industrial activities involving the use of potable and non-potable water.

USE - the purpose or activity for which land or a structure is designed, arranged, intended, occupied or maintained.

VERY-LOW INCOME HOUSEHOLD – a household whose income does not exceed fifty (50) percent of the area median income for Los Angeles County, as published and periodically updated by the State Department of Housing and Community Development, pursuant to Section 50105 of the California Health and Safety Code.

VINEYARD - a plantation of grapevines where wine grapes are produced.

WALLS - see FENCES.

WAREHOUSING - the storage of materials in a warehouse or terminal, where such materials may be combined, or separated for transshipment or storage purposes but the original material is not chemically or physically changed.

WETLAND - is defined by Section 30121 of the Coastal Act as lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. The definition of wetland is further detailed by Section 13577 (b)(1) of the California Code of Regulations as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to vegetated wetlands or deep-water habitats.

WHEEL STOP - a physical barrier sufficient in size and shape to prevent the movement of automobiles or other vehicles over or past such barrier.

WHOLESALE - establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD - an open space on the same lot or parcel of land, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise permitted by the Malibu Zoning Ordinance.

YARD, FRONT - a yard extending across the full width of the lot or parcel of land. The depth of a required front yard shall be a specified horizontal distance between the highway line of the parkway, highway or street on which the property fronts, and a line parallel thereto on the lot or parcel of land, except as otherwise provided for a flag lot. On corner lots, the front yard shall be located across the narrower frontage of the lot. A yard shall not be deemed a front yard if there is no right of access of any kind, pedestrian or vehicular, from the adjoining street.

YARD, REAR - a yard extending across the full width of the lot or parcel of land. The depth of the required rear yard shall be a specified horizontal distance between the rear lot line and a line parallel thereto on the lot or parcel of land.

YARD, SIDE, CORNER - a yard bounded by a parkway, highway or street, extending from the required front yard, or the highway line on which the property fronts where no front yard is required, to the required rear yard or to the rear lot line where no rear yard is required. The width of such required side yard shall be a specified horizontal distance between the highway line of the parkway, highway or street on which the property sides, and a line parallel thereto on the lot or parcel of land.

YARD, SIDE, INTERIOR - a yard extending from the required front yard, or the highway line on which the property fronts where no front yard is required, to the required rear yard or to the rear lot line where no rear yard is required on other than a corner side yard. The width of a required interior side yard shall be a specified horizontal distance between each such side lot line parallel thereto on the lot or parcel of land.

ZERO LOT LINE - the location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONING ORDINANCE – Title 17 of the City of Malibu Municipal Code. (Ord. 461 § 6, 2020; Ord. 449 § 4, 2019; Ord. 393 § 4, 2015; Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

2.2. WIRELESS TELECOMMUNICATIONS DEFINITIONS

ANSI/IEEE STANDARDS - American National Standards Institute. A private organization that develops widely accepted standards for many pieces of modern day equipment.

ANTENNA - A typically metallic device used for radiating or receiving radio waves.

ANTENNA, BUILDING MOUNTED SITES - Antennae which are located and/or mounted on an existing building's exterior walls.

ANTENNA EQUIPMENT - A cabinet, room, or similar structure which houses the electronic facilities used to operate an antenna.

ANTENNA, GROUND MOUNTED SITES - Antennae which are located and/or mounted on a pole, attached to the ground level and are, otherwise, freestanding. These antennae do not use a building or ancillary structures for mounting purposes.

ANTENNA HEIGHT - The vertical distance from the existing or proposed grade, whichever is lower, to the top of the antenna or its support structure.

ANTENNA, ROOF-MOUNTED - An antenna, and its associated support structure, that is attached to a roof of a building or similar structure.

CO-LOCATION - is the location of two or more wireless communication facilities on a single support structure or otherwise sharing a common location. Co-location shall also include the location of wireless communication facilities with other types of facilities including, but not limited to, water tanks, light standards, outbuildings and other utility facilities and structures.

EQUIPMENT CABINET - is a cabinet, structure or building used to support equipment associated with a wireless communication facility.

FACILITY - as used in chapters addressing wireless telecommunications antennae and facilities refers to a Wireless Telecommunications Facility.

FEDERAL COMMUNICATION COMMISSION (FCC) - is a United States government agency responsible for the regulation of interstate and international communications by radio, television, wire, satellite and cable.

MONOPOLE - is a single, freestanding pole, post or similar structure over fifteen (15) feet in height used to support equipment associated with a wireless communication facility.

PERSONAL COMMUNICATION SERVICES (PCS) - Federal Communication Commission (FCC) terminology describing intelligent, digital wireless, personal two-way communication systems. A broad range of telecommunications services that enable people and devices to communicate independent of location. PCS networks and devices operate over a wide range of frequencies assigned and authorized by the FCC.

RIGHT-OF-WAY - as used in chapters addressing wireless telecommunications antennae and facilities refers to property that is owned and controlled by the City.

SERVICE PROVIDER - as used in chapters addressing wireless telecommunications antennae and facilities means any authorized provider of wireless communications services.

SILHOUETTE - as used in chapters addressing wireless telecommunications antennae and facilities means a representation of the outline or profile of the antenna associated with a telecommunication facility, as seen from an elevation perspective.

WIRELESS TELECOMMUNICATIONS ANTENNAS - A device used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based systems, including, but not limited to, directional, omni-directional and parabolic antennas. This excludes non-commercial antennas, radio and television signals, and non-commercial satellite dishes.

WIRELESS TELECOMMUNICATIONS FACILITIES - An installation that sends and/or receives radio frequency signals, including, but not limited to, directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, cabinets, equipment rooms, accessory equipment and other structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas. (Ord. 303 § 3, 2007)

2.3. SIGN DEFINITIONS

ADVERTISING DEVICE means any balloon, flag, pennant, or propeller; oscillating, rotating, or pulsating light; or other contrivance except a sign used to attract attention for the purpose of promoting the sale of products.

ADVERTISING DISPLAY means any device, contrivance, statue, structure or sign used as a display, regardless of size or shape, for the purpose of attracting attention or making anything known, the origin or place of sale of which is on the property with such advertising display.

AREA, SIGN means the area of a sign within a single continuous perimeter of not more than eight (8) straight lines enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. In the case of a sign designed with more than one (1) exterior surface, the area shall be computed as including only the maximum single display surface which is visible from any ground position at any one (1) time. The supports, uprights, or structures on which any such sign is supported shall not be included in determining the sign area unless such supports, uprights, or structures are designed in such a manner as to form an integral background of the display.

BUSINESS SIGN means a sign displaying information pertaining to goods, services, or entertainment offered or produced by the business located on the same property as the business sign, but not including advertising devices or advertising displays.

COMBINATION SIGN means any sign incorporating any combination of the features of freestanding, projecting and roof signs.

CONSTRUCTION SIGN means a temporary sign stating the names of those individuals or firms directly connected with the construction or development project, their addresses and their telephone numbers.

DIRECTIONAL SIGN means an onsite sign on private property, the sole purpose of which is to direct the flow of traffic, transmit parking information or convey similar such information.

EXTERNALLY LIGHTED means the immediate source of illumination is not enclosed by the surface of the sign structure.

THE FACE OR WALL OF A BUILDING means the outer surface of any main exterior wall or foundation of a building, including windows and store fronts.

FREESTANDING POLE SIGN means a sign supported by uprights or braces placed upon or into the ground and detached from any building.

HEIGHT OF A SIGN means the greatest vertical distance measured from the ground level directly beneath the sign to the top of the sign.

IDENTIFICATION SIGN means a sign limited to the identifying name, symbol or insignia, or any combination thereof, of a building, use or persons occupying the premises on which the sign is located.

INFORMATIONAL SIGN means a sign stating the hours of operation of a business, emergency telephone numbers, credit card usage, or other information of a similar nature.

INTERNALLY LIGHTED means the immediate source of illumination is completely enclosed by the surface of the sign structure.

MONUMENT SIGN means a low-profile ground sign incorporating the design and building material of the primary use of the property. No poles for the support of the sign face shall be permitted, and the base of such sign shall be at least fifty (50) percent of the dimension of the width of the sign face.

NAMEPLATE means a sign stating only the name of the occupant and his or her occupation or specialty.

NEON SIGN means an illuminated sign affected by a colorless, odorless light source consisting of a neon or gas tube which is bent to form letters, symbols or other shapes.

NONCONFORMING SIGN means any existing and lawfully established or lawfully authorized sign that does not conform to the policies and development standards of the certified Malibu LCP, or any subsequent amendments thereto.

OUTDOOR ADVERTISING DISPLAY, STRUCTURE OR SIGN means a sign placed for the purpose of advertising products or services that are not produced, stored, or sold on the property upon which the sign is located. This shall also mean a billboard.

PRICE SIGN means a sign limited to the name or identification of items, products or services offered for sale on the premises and the price of the items or products.

PORTABLE OR MOVABLE SIGN means any sign which is intended to be movable or capable of being moved, whether or not on wheels or other special supports, including but not limited to “A frame” type signs. Portable or movable signs also include placards, signs, banners or similar devices attached to vehicles for advertising purposes, unless such devices are an integral part of such vehicle used in the normal course of business. This definition does not include real estate advertising signs or political signs.

PROJECTING means a sign other than a wall sign suspended from or supported by a building or structure and projecting outward more than six (6) inches therefrom.

REAL ESTATE SIGN means a temporary sign advertising the sale, lease, or rental of the property upon which it is located, and the identification of the person or firm handling such sale, lease, or rental.

RIGHT-OF-WAY, PRIVATE means an off-street parking area for a business or group of businesses that does not abut a public right-of-way and is not located within two hundred (200) feet of any property zoned for residential uses.

ROOF SIGN means a sign affixed on, above, or over the roof of any building so that it projects more than three (3) feet above the lowest point of the roof of such building.

SUBDIVISION DIRECTIONAL SIGN means an off-site sign used for the purpose of providing travel directions to a subdivision development offered for sale or lease for the first time.

SINGLE PURPOSE BUILDING means a building used by one (1) occupant for an individual business.

VEHICLE-RELATED PORTABLE FREESTANDING SIGN means a portable sign affixed to or inside a vehicle for the purpose of directing people to a business in close proximity to where the vehicle is parked.

WALL SIGN means a sign attached to or erected on the exterior wall of the building or structure or on a canopy marquee or similar overhang with the exposed face of the sign in a plane approximately parallel to the plane of the exterior wall and not extending more than three (3) feet above the lowest point of the roof of such building or structure.

WINDOW SIGN means a sign directing attention to the principal business, profession or industry attached to or within three (3) feet of the inside of the window upon the premises where the sign is displayed, or to the type of products sold, manufactured or assembled, or to services or entertainment offered on said premises.

2.4. CULTURAL RESOURCES DEFINITIONS

CEQA shall mean the California Environmental Quality Act which shall be the statutory reference for those portions of this Chapter drawn therefrom.

CULTURAL RESOURCE SENSITIVITY MAP shall mean a map developed by the Director showing the location of culturally sensitive areas.

CULTURALLY SENSITIVE AREAS shall mean areas identified on the Cultural Resource Sensitivity Map as an area where important cultural resources exist.

IMPORTANT CULTURAL RESOURCE may include, but not be limited to, the following criteria:

1. Has a special quality such as oldest, best example, largest, or last surviving example of its kind; or

2. Is at least 100 years old; or

3. Significant to Chumash prehistory or history;

4. Contains burial or other significant artifacts;

5. Is an archeologically undisturbed site;

6. Has important archeological significance;

7. Relates to significant events or persons;

8. Listed on Cultural Resources Sensitivity Map;

9. Of specific local importance;

10. Contains traditional sacred ground (including traditional ceremonial material gathering site);

11. Contains burials;

12. Contains sacred and/or significant artifacts.

PROJECT shall include any earth moving requiring a planning clearance, development permit, geological/geotechnical exploratory excavation permit, sewer permit, building permit, or grading permit. The term shall include government-initiated or funded works except those projects necessary for emergency purposes.

QUALIFIED ARCHAEOLOGIST shall mean a professional archaeologist included as a person qualified by or on the registry of Professional Archeologist of the Society for American Archeology who has a minimum of three years at the supervisory level.

QUALIFIED CHUMASH CULTURAL RESOURCES MONITOR shall mean a Native American of Chumash descent who:

1. Submits verifiable evidence, approved by the Planning Manager, that he/she is of Chumash descent or is a Native American member of the Chumash community. Being listed as Chumash "most likely descendent" by the California Native American Heritage Commission may satisfy these criteria.

2. Submits verifiable evidence, approved by the Planning Manager, indicating that he/she has a minimum of thirty (30) days of on site experience monitoring Chumash cultural resource sites.

REGIONAL HISTORICAL RESOURCES INFORMATION CENTER shall mean the South Central Coastal Information Center, at the Institute of Archaeology, University of California, Los Angeles. (Ord. 303 § 3, 2007)

CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

3.1. THE LOCAL IMPLEMENTATION PLAN ZONING MAP

The Local Implementation Plan Zoning Map of the City of Malibu shall be the map dated September 13, 2002, as may be amended by ordinance of the City Council and certified by the California Coastal Commission, and divided into Sections 1 through 4, on file with the City Clerk. (Ord. 288 § 3, 2006; Ord. 302 § 1, 2007; Ord. 303 § 3, 2007; Ord. 307 § 1, 2007; Ord. 352 § 1, 2010)

3.2. UNCERTAIN ZONING BOUNDARIES

Where uncertainty exists as to the boundaries of any district shown on the Malibu LIP Zoning Map, the following rules shall apply:

1. Where such boundaries are indicated as approximately following street and alley lines or lot lines, such lines shall be construed to be such boundaries.

2. Where a district boundary divides a lot, the location of such boundary, unless indicated by dimension, shall be determined by the use of the scale appearing on the Zoning Map.

3. In case any uncertainty exists, the Director shall determine the location of boundaries.

4. Where any public street or alley is officially vacated or abandoned, the regulations applicable to abutting properties shall apply to such vacated or abandoned street or alley.

3.3. ZONING DISTRICTS

The City of Malibu is hereby divided into the following zoning districts:

TABLE A: City of Malibu Zoning Districts

Zone Code	Zone District
RR	Rural Residential
SF	Single Family Residential
MF	Multi-Family Residential
MFBF	Multi-Family Beach Front
MHR	Mobilehome Residential
CR	Commercial Recreation
CN	Commercial Neighborhood
CC	Community Commercial
CG	Commercial General
BPO	Business-Professional Office
CV-1	Commercial Visitor Serving - 1
CV-2	Commercial Visitor Serving - 2

Zone Code	Zone District
I	Institutional
OS	Public Open Space
PRF	Private Recreational Facilities
RVP	Recreational Vehicle Park
PD	Planned Development

A. Rural Residential (RR) Zone

1. Purpose

The RR District is intended for sensitively designed, large lot single family residential development, with agricultural uses and animal keeping which respects surrounding residents and the natural environment as accessory uses. This district incorporates a variety of natural resources and amenities.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the RR District shall comply with the following criteria:

a. Minimum Lot Area. The minimum lot area for each parcel located in the RR District shall be based on the corresponding designation found on the Zoning Map as follows:

i. RR-40: 40 acre minimum area

ii. RR-20: 20 acre minimum lot area

iii. RR-10: 10 acre minimum lot area

iv. RR-5: 5 acre minimum lot area

v. RR-2: 2 acre minimum lot area

vi. RR-1: 1 acre minimum lot area

The minimum lot area requirements listed above represent the maximum density permitted in each RR designation. Any request to subdivide land within this zoning district will also require

compliance with Chapter 15 (Subdivisions) of the Malibu Local Implementation Plan which establishes a slope/density formula for all subdivision applications.

b. Minimum Lot Width: 150 feet

c. Minimum Lot Depth: 250 feet

4. Site Development

In addition to the regulations contained in this Chapter, all uses in the RR District shall be subject to the applicable standards located in the Malibu LIP.

B. Single Family (SF) Zone

1. Purpose

The SF District will serve the majority of the City's single-family residential parcels. The intent of this District is to enhance the rural characteristics of the community by maintaining low density residential development in a manner which respects surrounding property owners and the natural environment.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the SF District shall comply with the following criteria:

a. Minimum Lot Area. All new parcels created within the SF District shall comply with the minimum corresponding SF designation indicated on the Zoning Map as follows:

i. SF-L: 0.5 unit per acre

ii. SF-M: 1 unit per 0.25 acre

1. Beachfront: 1 unit per 0.25 acre

b. Minimum Lot Width: 80 feet

1. Beachfront Minimum Lot Width: 45 feet

c. Minimum Lot Depth: 120 feet

1. Beachfront Minimum Lot Depth: 120 feet

d. The single family unit allowed on a SF parcel may be transferred to an adjacent MFBF parcel if the MFBF parcel and adjacent SF parcel are combined through a lot merger. All uses and development on the merged parcel shall be subject to all applicable standards of the Malibu LIP.

4. Site Development

In addition to the regulations contained in this Chapter, all uses in the SF District shall be subject to the applicable standards located in the Malibu LIP. (Ord. 364 § 4, 2012; Ord. 352 § 3A, 2010)

C. Multiple Family Residential (MF) Zone

1. Purpose

The MF District consists of existing multi-family development in the City and is intended to provide for a variety of residential opportunities ranging from single-family to multiple-family and residential uses at a moderate density range.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the MF District shall comply with the following criteria:

a. Minimum Lot Area: 20,000 sq. ft. per lot unless otherwise provided in Chapter 15 (Subdivisions) of the Malibu Local Implementation Plan

b. Minimum Lot Width: 100 feet

c. Minimum Lot Depth: 150 feet

d. Maximum Density: 6 units per acre

4. Site Development Standards

In addition to the regulations contained in this Chapter, all uses in the MF District shall be subject to the applicable standards located in the Malibu LIP.

D. Multi-Family Beach Front (MFBF) Zone

1. Purpose

The MFBF District provides standards for development on beachfront lots in the City and is intended to provide for a variety of residential opportunities ranging from single-family to multiple-family.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the MFBF District shall comply with the following criteria:

a. Minimum Lot Area: 5,000 sq. ft. per lot unless otherwise provided in Chapter 15 (Subdivisions) of the Malibu LIP

b. Minimum Lot Width: 50 feet

c. Minimum Lot Depth: 100 feet

d. Units per Lot: 1 unit per 1,885 sq. ft. of lot area, not to exceed 4 units.

e. The units per lot may be increased by one unit if a MFBF parcel and an adjacent SF parcel are combined through a lot merger. All uses and development on the merged parcel shall be subject to all applicable standards of the Malibu LIP.

4. Site Development Standards

In addition to the regulations contained in this Chapter, all uses in the MFBF District shall be subject to the applicable standards located in located in the Malibu LIP. (Ord. 352 § 3B, 2010)

E. Mobilehome Residential Zone (MHR)

1. Purpose

The MHR District is intended to accommodate the existing mobilehome parks within the City by establishing a specific zoning district enabling the operation of these sites and recognizing their contribution to the mix of housing types in the City.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Development Standards

   a. Any proposed modifications to an existing mobilehome shall comply with all applicable development and building code provisions required by this Code and by State Law.

   b. Additional requirements may be imposed as a condition of approval of a Conditional Use Permit.

F. Commercial Recreation (CR) Zone

1. Purpose

   The CR District establishes a zone for facilities open to the public that are utilized for low intensity recreational and athletic activities characterized by large open spaces with limited building coverage; such as, hiking, horseback riding, summer camps, boarding of horses and domestic animals, tennis, swimming, gymnastics, bicycling, and other similar type activities, and open space and facilities utilized for these activities.

2. Permitted and Conditionally Permitted Uses

   Refer to Table B (Permitted Uses).

3. Development Standards

   All new lots created within the CR District shall comply with the following criteria:

   a. Minimum Lot Size: 1 acre

   b. Minimum Lot Width: 100 feet

   c. Minimum Lot Depth: 150 feet

   d. Structures shall be limited to 18 feet in height, except as otherwise provided for in Section 13.27 of the Malibu LIP.

In addition to the regulations contained in this Chapter, all uses in the CR District shall be subject to the applicable standards located in the Malibu LIP.

G. Business-Professional Office Zone (BPO)

1. Purpose

The BPO District is intended to provide appropriately located areas to be used for the offices needs of the community.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the BPO District shall comply with the following criteria:

a. Minimum Lot Area: 2 acres

b. Minimum Lot Width: 200 feet

c. Minimum Lot Depth: 350 feet

In addition to the regulations contained in this Chapter, all uses in the BPO District shall be subject to the applicable standards located in the Malibu LIP.

H. Commercial Neighborhood (CN) Zone

1. Purpose

The CN District is intended to provide for low intensity commercial activity emphasizing service to the residents in the surrounding neighborhoods. This District establishes standards which ensure that the types of uses and development pattern maintain compatibility with nearby and adjacent residential areas.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Development Criteria

All new lots created within the CN District shall comply with the following criteria:

a. Minimum Lot Area: 2 acres

b. Minimum Lot Width: 200 feet

c. Minimum Lot Depth: 350 feet

In addition to the regulations contained in this Chapter, all uses in the CN District shall be subject to the applicable standards located in the Malibu LIP.

I. Community Commercial (CC) Zone

1. Purpose

The CC District is intended to provide for the resident serving needs of the community similar to the CN District, but on parcels of land more suitable for concentrated commercial activity.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

In addition to the uses permitted in Table B, mobile homes for residential occupancy by the property owner shall be considered a permitted use for a period of not more than two consecutive years where the property owner's primary residence is destroyed or uninhabitable as a result of landslide, fire or other natural disaster. The mobile homes shall comply with all applicable building codes for residential occupancy. This provision shall automatically expire on December 9, 2003.

3. Lot Development Criteria

All new lots created within the CC District shall comply with the following criteria:

a. Minimum Lot Area: 5 acres

b. Minimum Lot Width: 300 feet

c. Minimum Lot Depth: 500 feet

In addition to the regulations contained in this Chapter, all uses in the CC District shall be subject to the applicable standards specified in the Malibu LIP.

J. Commercial Visitor Serving - 1 Zone (CV-1)

1. Purpose

The CV-1 District is intended to provide for visitor serving uses, including motels and bed and breakfast inns, which serve visitors and residents that are designed to be consistent with the rural character and natural environmental setting.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the CV-1 District shall comply with the following criteria:

a. Minimum Lot Area: 5 acres

b. Minimum Lot Width: 300 feet

c. Minimum Lot Depth: 500 feet

In addition to the regulations contained in this Chapter, all uses in the CV-1 District shall be subject to the applicable standards specified in the Malibu LIP.

K. Commercial Visitor Serving - 2 Zone (CV-2)

1. Purpose

The CV-2 District is intended to provide for visitor serving uses, including hotels serving visitors and residents, that are designed to be consistent with the rural character and natural environmental setting.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the CV-2 District shall comply with the following criteria:

a. Minimum Lot Area: 5 acres

b. Minimum Lot Width: 300 feet

c. Minimum Lot Depth: 500 feet

In addition to the regulations contained in this Chapter, all uses in the CV-2 District shall be subject to the applicable standards specified in the Malibu LIP.

L. Commercial General (CG) Zone

1. Purpose

The CG District establishes a zoning district for commercial uses oriented along Pacific Coast Highway (PCH). Uses include a wider range of resident and visitor serving uses.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created within the CC District shall comply with the following criteria:

a. Minimum Lot Area: 5 acres

b. Minimum Lot Width: 300 feet

c. Minimum Lot Depth: 500 feet

In addition to the regulations contained in this Chapter, all uses in the CC District shall be subject to the applicable standards specified in the Malibu LIP.

M. Public Open Space (OS) Zone

1. Purpose

The OS District provides for publicly owned land which is dedicated to recreation or preservation of the City's natural resources, including public beaches, park lands, and preserves.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

N. Institutional (I) Zone

1. Purpose

The I District accommodates public and quasi-public uses and facilities in the City. This District includes emergency communications and services, libraries, museums, maintenance yards, educational, (private and public) and religious institutions, community centers, parks, and recreational and governmental facilities.

2. Permitted and Conditionally Permitted Uses

   Refer to Table B (Permitted Uses).

3. Lot Development Criteria

   a. All new lots created within the I District shall comply with the following criteria:

      i. Minimum Lot Area: 0.5 acres

      ii. Minimum Lot Width: 80 feet

      iii. Minimum Lot Depth: 125 feet

   b. In addition to the regulations contained in this Chapter, all uses in the I District shall be subject to the applicable standards specified in the Malibu LIP.

O. Private Recreational Facilities (PRF) Zone

1. Purpose

   The PRF District is intended to provide for private recreational facilities whose members receive membership through deeded rights, property rights, or membership.

2. Permitted and Conditionally Permitted Uses

   Refer to Table B (Permitted Uses).

3. Lot Development Criteria

   All new lots created in the PRF District shall comply with the following criteria:

   a. Minimum Lot Area: 0.5 acres

   b. Minimum Lot Width: 80 feet

   c. Minimum Lot Depth: 125 feet

In addition to the regulations contained in this Chapter, all uses in the PRF District shall be subject to the applicable standards located in the Malibu LIP.

P. Recreational Vehicle Park (RVP) Zone

1. Purpose

The RVP District is intended to provide for recreational vehicle parks.

2. Permitted and Conditionally Permitted Uses

Refer to Table B (Permitted Uses).

3. Lot Development Criteria

All new lots created in the RVP District shall comply with the following criteria:

a. Minimum Lot Area: 10 acres

b. Minimum Lot Width: 300 feet

c. Minimum Lot Depth: 500 feet

In addition to the regulations contained in this Chapter, all uses in the RVP District shall be subject to the applicable standards located in the Malibu LIP.

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in Chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.

ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).

iii. Domestic animals, kept as pets.

iv. Landscaping.

b. Lot No. 6

i. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners' association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

c. Lot No. 7

i. Parks and public open space, excluding community centers.

ii. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.

iii. Onsite wastewater treatment facilities.

3. Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria:

a. Lot Nos. 1—5

i. Minimum lot area: 113,600 square feet (2.60 acres).

ii. Minimum lot width: 115 feet.

iii. Minimum lot depth: 480 feet.

b. Lot No. 6

i. Minimum lot area: 125,700 square feet (2.88 acres).

ii. Minimum lot width: 625 feet.

iii. Minimum lot depth: 100 feet.

c. Lot No. 7

i. Minimum lot area: 75,640 square feet (1.74 acres).
ii. Minimum lot width: 460 feet.
iii. Minimum lot depth: 100 feet.

4. Property Development and Design Standards

Development in Malibu Coast Estate shall be subject to all applicable standards of the Malibu LIP, unless otherwise indicated in this LIP Section 3.3(Q). The following development standards shall replace the corresponding development standards otherwise contained in each noted LIP Section for those lots in Malibu Coast Estate.

a. Lot Nos. 1—5

i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))

a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:
Lot 1 – 10,052 sq. ft.
Lot 2 – 9,642 sq. ft.
Lot 3 – 9,434 sq. ft.
Lot 4 – 9,513 sq. ft.
Lot 5 – 10,990 sq. ft.

b) Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

c) Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six foot projection) shall be included in TDSF.

d) The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on "Malibu Coast Estate Planned Development Map 1" in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback

on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.

ii. Setbacks (Replaces corresponding standards in LIP Section 3.6F)

a) Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

b) Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

c) Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

d) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

iii. Structure Height (Replaces corresponding standards in LIP Section 3.6(E))

a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. Height is measured from natural or finished grade, whichever is lower.

b) Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

c) In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.

iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))

a) Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.

b) Non-exempt grading shall be limited to 2,000 cubic yards per lot.

c) Net export shall be limited to 3,500 cubic yards per lot.

v. Impermeable Coverage, Landscaping, and Berm

a) The impermeable coverage requirement in LIP Section 3.6(I) shall apply.

b) In addition to the requirements of LIP Section 3.10, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.

c) A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.

b) One enclosed or unenclosed parking space for a guest unit or second unit.

vii. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))

a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.

b) Lighting must comply with LIP Section 6.5(G).

viii. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

b. Lot No. 6

i. Structure Size

The total development square footage of all structures shall not exceed 180 square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on "Malibu Coast Estate Planned Development Map 1" of this LIP.

ii. Setbacks

a) Buildings, not including projections permitted in Section 3.5 of the Malibu LIP shall maintain a minimum setback of fifty (50) feet from all property lines.
b) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

iii. Structure Height

a) Structure height shall not exceed 12 feet, as measured from natural or finished grade, whichever is lower.
b) In no event shall the maximum number of stories above grade be greater than one.
c) A basement, cellar or subterranean garage shall not be permitted.

iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))

a) Notwithstanding other provisions of this Code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.
b) Non-exempt grading shall be limited to 1,000 cubic yards.
c) Net export shall be limited to 2,500 cubic yards.

v. Impermeable Coverage (Replaces corresponding standard in LIP Section 3.6(I))

The impermeable coverage requirement in LIP Section 3.6(I) shall not apply. Up to 44,000 square feet of impermeable coverage shall be permitted.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.

vii. Colors and Lighting

a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on

plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit.

b) Lighting must comply with LIP Section 6.5(G).

c. Lot No. 7

i. Site Design

Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.

ii. Parking (In addition to the parking standards of LIP Section 3.14)

Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The Planning Director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.

iii. Fencing

With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.

iv. Temporary Uses

Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Malibu Municipal Code Chapter 17.68. (Ord. 398 § 4, 2015; Ord. 373 § 3, 2013; Ord. 366 § 3(C), 2012; Ord. 364 § 4(A), 2012)

3.4. OVERLAY ZONES

Overlay zone regulations provide for the establishment of certain overlay zones in areas where, by reason of location, topography, existing development conditions, or other circumstances, development impacts may be greater, or circumstances may necessitate additional site-specific regulation to further the purpose of this ordinance. Overlay zones may also be used to increase density and uses in underlying zones in order to facilitate affordable housing. All uses within the boundaries of an overlay zone shall comply with the provisions of the overlay zone in addition to applicable standards in the underlying zone (unless otherwise specified), other provisions of this ordinance, and other provisions of law. (Ord. 449 § 4, 2019)

3.4.1 Overlay Districts Specific to Existing Developments

The following development standards shall replace the Residential Property Development and Design Standards (Section 3.6 of the Malibu LIP) for the areas listed below and identified on the Malibu LIP Zoning Map. All requirements for the Malibu LIP that are not inconsistent with the criteria listed below shall remain in effect for those parcels in the Overlay Districts.

A. Malibu Knolls Overlay District

1. Structure Size: The structure size formula in Section 3.6 (K) of the Malibu LIP shall apply; however, slopes equal to 1:1 and private roads easements shall be included in the lot size calculations.

2. Setbacks: The following setback requirements shall replace the setback standards in Section 3.6 (F) of the Malibu LIP.

    a. Front yard setbacks shall be 10 feet for garages if the slope in front yard is equal to or exceeds 3:1, and 15 feet for all other structures.

    b. Side yard setbacks shall be 5 feet.

    c. Rear yard shall be 15 feet.

3. Structure Height: No building or structure, including satellite dish antenna, shall exceed 24 feet for flat and 28 feet for pitched roof, as measured as a vertical line from the ground to a line parallel to the slope of the land, except for chimneys and rooftop antenna other than satellite dish antenna. Structures over 18 feet in height shall not be subject to the Site Plan Review process as set forth in Section 13.27 of the Malibu LIP.

4. Ridgeline: The ridgeline development requirements of Section 6.5 (C) of the Malibu LIP shall not apply to development.

5. Impermeable Coverage: The impermeable coverage requirement in Section 3.6 (I) of the Malibu LIP shall apply; however, slopes of equal to 1:1 and private road easements shall be included in the lot size calculations.

6. Site of Construction: The site of construction standard in Section 3.6 (J) of the Malibu LIP shall apply; however, structures may be constructed on slopes equal to 2:1.

B. Malibu La Costa Overlay District

1. Structure Size: The structure size formula in Section 3.6 (K) of the Malibu LIP shall apply; however, slopes steeper than 1:1 and private road easements shall be included in the lot size calculation and on lots 13,559 square feet or less, the total development square footage shall not exceed 3,400 square feet.

2. Multi-Story Floor Area: The requirements of Section 3.6 (K) of the Malibu LIP shall not apply; however, the following requirement shall apply. Flat wall facades along south/ocean-facing elevations shall not extend more than 25 feet horizontally nor 20 feet vertically (excluding gable ends) without a minimum four (4) foot offset. Balconies which project from continuous flat wall facades shall not be considered offsets.

3. Setbacks: The following setback requirements shall replace the setback standards in Section 3.6 (F) of the Malibu LIP.

   a. Front Yard Setback: The least restrictive of the following four methods shall apply:

      i. The average existing front setback between the two adjacent properties or, in the event that there is a vacant adjacent lot, the next contiguous property.

      ii. The average of at least two, but not more than five, contiguous existing front setbacks along the same side of the street.

      iii. For lots with 20 percent slopes (5:1) within the first 20 feet from the street, the minimum front setback for a garage shall be 10 feet from the front property line; and shall be 15 feet front property line for the residence.

iv. 20% of the lot depth.

b. Side Yard Setback - 10% of the lot width for lots narrower than 50 feet as measured at the street and 5 feet on each side for lots wider than 50 feet as measured at the street.

c. Rear yard Setback - 15 feet from the property line.

4. Projections into Yards: The following requirements shall replace the standards in Section 3.5.3 (B) of the Malibu LIP.

a. Architectural projections, including bay windows, oriels, eaves, awnings, louvers, sills, balconies, cornices, unroofed porches, steps, terraces, and chimneys shall not project closer than 3 feet to the side property lines.

b. Underground structures, such as swimming pools, may project without limit into any required yards, provided that such structures shall not have a height of more than two and one-half (2 1/2) feet above adjacent grade and shall not be located closer than five (feet) to the front and rear yard property lines and conform with the required side yard setbacks.

5. Structure Height: The following structure height requirements shall replace Section 3.6 (E) of the Malibu LIP.

a. Uphill properties with steep slopes (Identified in type "A" on the Overlay District Map).

i. Flat roofs shall not exceed 24 feet from the top of the garage sheathing and pitched roofs shall not exceed 28 feet above natural grade.

ii. Garage height shall not exceed 12 feet above the garage slab.

b. Uphill properties with shallow slopes (Identified in type "B" on the Overlay District Map).

i. Shall not exceed 18 feet above natural grade or above the existing building pad; whichever is less restrictive.

c. Downhill properties with steep slopes (Identified in type "C" on the Overlay District Map).

i. Shall not exceed 18 feet as measured at the midpoint of the front setback from the property line or 14 feet at the street property line, whichever is higher.

ii. At no point shall the structure breach the horizontal projection of that 18 foot or 14 foot front-line.

iii. The maximum height at a downhill elevation shall not exceed 35 feet at the structure's midpoint above natural grade.

iv. The structure shall project laterally into the lot a maximum of 40 feet, any projection past this point shall not exceed 18 feet in height above natural grade.

v. The average height of the structure shall not exceed 32 feet as measured according to the structure height diagram in Exhibit A.

d. Downhill properties with shallow slopes (Identified in type "D" on the Overlay District Map).

i. Shall not exceed 18 feet as measured at the midpoint of the front setback from the property line or 14 feet at the street property line, whichever is higher.

ii. At no point shall the structure breach the horizontal projection of the 18 feet or 14 feet front-line.

iii. The average height of the structure shall not exceed 28 feet, as measured according to the structure height diagram in Exhibit A.

iv. For La Costa Mesa only, the structure shall project laterally into the lot a maximum of 50 feet, any projection past this point shall not exceed 18 feet in height above natural grade.

6. Ridgeline: The ridgeline development requirements of Section 6.5 (C) of the Malibu LIP shall not apply to development.

7. Impermeable Lot Coverage: The impermeable coverage requirement in Section 3.6 (I) of the Malibu LIP shall not apply; however, all lots shall maintain 1,000 square feet of permeable surfaces.

8. Site of Construction: Structures may be constructed on slopes flatter than 1.5:1.

9. Retaining Walls: The requirements of Section 3.5.3 (A) of the Malibu LIP shall apply; however, the maximum wall height shall not exceed 14 feet, for retaining walls and for single cuts (grading), which are an integral part of the structure.

10. Basements: The following definition for basements shall apply. That portion of a building or structure between floors and ceiling, which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling on three sides of the structure.

C. Trancas Beach Overlay District

1. Within the area designated as Area I on the Trancas Beach Overlay District Map, no structure above 30 inches will be permitted, except that a windbreak above 30 inches in height will be permitted provided that it is not more than 9 feet in height and provided further that the entire area above 30 inches in height is constructed of transparent glass except for structural ribbing and topping. Any such windbreak may be L-shaped provided that the "leg" which runs parallel to the northerly line of Area I (i.e., the rear yard building set back line) is no greater in length than 1/3 of the width of the particular lot at that point. Any such windbreak may be roofed or unroofed.

2. Within the area designated as Area II on the Trancas Beach Overlay District Map, no structure above 30 inches will be permitted.

3. For the purposes of paragraphs a and b, above, the height shall be measured from the natural grade.

D. Malibu Country Estates Overlay District

1. Structure Size: All residences shall have a floor area of not less than 2,000 square feet. There shall be no maximum structure size limitation for a primary residence, provided the primary residence complies with all development restrictions of this Overlay District. In determining the square feet contained within any residence, the space contained within covered and uncovered porches, patios or entries, balconies, garages (whether or not they are integral with the house), basements and cellars shall be excluded.

2. Setbacks:

   a. Front yard setbacks shall be at least 26 feet as measured to the face of curb.

   b. Minimum side yard setbacks shall be at least 5 feet and there shall be no cumulative side yard setback limitation.

   c. Rear yard setbacks shall be at least 15 feet

3. Retaining walls: Retaining walls adjacent to and parallel with either side of a driveway shall not exceed 3 feet in height within the required front yard setback area.

4. Heights Within Required Setback Areas:
   a. No walls, fences, or hedges in excess of 6 feet in height shall be allowed within the required rear and side yard setback areas.

   b. No walls, fences, or hedges in excess of 5 feet in height shall be allowed within the required front yard setback areas.

5. Structure Height:

   a. No building or structure shall exceed one story and 18 feet in height to the highest point on the roof, except for chimneys, for those parcels located in Area "A" of this Overlay District as designated on the Zoning Map.

   b. No building or structure shall exceed two stories and 28 feet in height to the highest point on the roof, except for chimneys, for those parcels located in Area "B" of this Overlay District as designated on the Zoning Map.

   c. No building or structure shall exceed 18 feet in height to the highest point on the roof, except for chimneys, for the portion of the structure within 34 feet of the front property line and shall not exceed two stories and 28 feet in height to the highest point on the roof for the remaining portions of the building for those parcels located in Area "C" of this Overlay District as designated on the Zoning Map.

   d. The reference point for structure height measurements described in subsections a, b and c above shall be as follows:

      i. For an addition or remodel of an existing structure, the height shall be measured from the finished first floor except that the new structure height shall not exceed that of the existing structure at its highest point on the roof, excluding chimneys.

      ii. For the case where no structure exists or when an existing structure is removed to rebuild or replace, the height shall be measured from the control point set forth in the chart below.

      iii. The finished first floor level of any part of any building shall not be more than 3 feet above the control point shown in the chart below.

      iv. The finished floor level of any garage shall not be more than 8 feet below the control point set forth in the chart below.

      v. Except for review of satellite or communication devices and antennas in accordance with Section 3.4 (D)(13) of the Malibu LIP, the provisions of Section 13.27 of the Malibu LIP (Site Plan Review) shall not be available to increase structure heights as set forth in this Overlay District.

6. Site of Construction: There shall be no site of construction requirement, except for the following requirements:

   a. All development, excluding walls and fences, shall be limited to the existing building pad.

b. There shall be no more than one building pad per lot.

c. No structure, excluding walls and fences, shall extend beyond, or be cantilevered over, any downhill slope extending from the existing building pad.

d. For the purposes of this Overlay District, a building pad shall be defined as a single, continuous, graded area, not exceeding 3 percent in slope, designed to accommodate development.

7. Impermeable Coverage: There shall be no maximum impermeable coverage limitation. However, including any structures, impermeable surfaces shall only be permitted on the existing building pad except for the following:

a. A single driveway per lot not exceeding the width of the existing driveway apron, provided existing driveways are not relocated.

b. An uncovered parking area in front of the garage at the garage door opening provided its width does not exceed that of the garage and does not extend more than 20 feet toward the street as measured from the garage door.

c. Walkways, including stairs, leading from the street to the building pad, provided such walkways do not exceed 10 feet in width and provided that no more than one walkway, including stairs, is permitted per lot. Corner lots may have one walkway, including stairs, from each street.

d. Stairs and pathways, not exceeding 4 feet in width, required for maintenance of slopes.

e. Drainage ditches and swales.

8. Grading:

a. Grading shall not be permitted except for the excavation for export of no more than 500 cubic yards for the construction of swimming pools and spas and as may be permitted pursuant to Section c below.

b. No grading shall be permitted for the purpose of extending the existing building pad.

c. The following grading may be permitted pursuant to Section 13.27 of the Malibu LIP (Site Plan Review).

i. Grading not exceeding a maximum of 100 cubic yards total cut and fill.

ii. Remedial grading as defined in Section 8.3 (G) of the Malibu LIP.

9. Ridgelines: There shall be no requirement regarding the placement of structures in relation to ridgelines.

10. Roofs:

    a. Flat roofs shall not exceed 20% of the total roof area. For the purposes of this Section a flat roof shall include any roofs with a pitch of 8:1 or flatter or any roofs partially or completely covered by parapet walls.

    b. Roof materials shall be limited to clay tile, concrete tile or similar material.

    c. Roof mounted air conditioning units shall be prohibited.

11. Exterior Maintenance:

    a. All facades made of stucco or wood shall be painted or stained.

    b. All walls and fences made of stucco, iron, or wood shall be painted or stained.

12. Carports: Carports are prohibited.

13. Satellite or Communication Devices and Antennas: Satellite or communication devices and antennas which exceed one meter in diameter shall not project above rooflines and shall not be visible from public streets or sidewalks. Pursuant to the provisions of Section 13.27 of the Malibu LIP (Site Plan Review), the Director may approve a location or size not strictly in conformance with this Overlay District where necessary to accommodate the technical requirements of the equipment.

E. Malibu Colony Overlay District

1. Height: The following height requirements shall replace Section 3.6 (E) of the Malibu LIP.

    a. Beachfront Lots

        i. The structure shall not exceed 20 feet in height for a horizontal distance of 15 feet from the front yard setback on the landward side of the parcel.

        ii. The structure shall not exceed 22 feet in height for the entire horizontal distance between the first floor and second floor stringlines on the seaward side of the parcel.

        iii. The maximum structure height shall not exceed 24 feet for flat roofs, or 30 feet for pitched roofs, for the remaining building envelope. For the purposes of this section, a

pitched roof shall be defined as any roof with a slope of 3:12 or steeper and a flat roof shall be defined as any roof with a slope flatter than 3:12.

b. Nonbeachfront Lots

i. The structure shall not exceed 20 feet in height for a horizontal distance of 15 feet from the front yard setback.

ii. The structure shall not exceed 15 feet in height for a horizontal distance of 15 feet from the rear yard setback.

iii. The maximum structure height shall not exceed 24 feet for flat roofs, or 30 feet for pitched roofs, for the remaining building envelope. For the purposes of this section, a pitched roof shall be defined as any roof with a slope of 3:12 or steeper and a flat roof shall be defined as any roof with a slope flatter than 3:12.

c. All structure heights shall be measured from one foot above the centerline of Malibu Colony Drive to the highest point on the roof.

d. In no event shall the maximum number of stories above grade be greater than three.

e. The provisions of Section 13.27 of the Malibu LIP , Site Plan Review, shall not apply.

2. Setbacks: The following setback requirements shall replace Sections 3.6 (F) and 3.6 (G) of the Malibu LIP.

a. Beachfront Lots

i. Front: 4 feet as measured from the edge of the Malibu Colony Drive road easement to the wall of the structure.

ii. Sides: The provisions of Section 3.6 (G)(2) of the Malibu LIP shall apply.

iii. Rear: The stringline rule as defined in Section 3.6 (G)(3) of the Malibu LIP shall apply; however, separate stringlines shall be drawn for each floor for both enclosed living spaces and decks. Existing teahouse or cabana structures shall not be used to establish the stringline for enclosed living space.

b. Nonbeachfront Lots

i. Front: 15 feet as measured from the edge of the Malibu Colony Drive road easement to the wall of the structure.

ii. Sides: The provisions of Section 3.6 (F)(2) of the Malibu LIP shall apply.

iii. Rear: 20 feet as measured from the property line to the wall of the structure.

3. Ridgelines: The provisions of Section 6.5(C) of the Malibu LIP shall not apply.

4. Development Area: The provisions of Section 3.6 (H) of the Malibu LIP shall not apply.

5. Impermeable Coverage: The provisions of Section 3.6 (I) of the Malibu LIP shall not apply.

6. Site of Construction: The provisions of Section 3.6 (J) of the Malibu LIP shall not apply.

7. Structure Size: The provisions of Section 3.6 (K) of the Malibu LIP shall not apply.

8. Neighborhood Standards: The provisions of Section 3.6 (M) of the Malibu LIP shall not apply.

F. De Ville Way Overlay District

1. Height. The following requirements shall replace the height requirements of Section 3.6 (E) of the Malibu LIP:

   a. Maximum Height. Maximum of 24 feet for flat roofs and 28 feet for pitched roofs, as measured from the first floor finished pad, excluding basement garages. Basement garage heights shall not exceed 10 feet from the finished pad. For the purposes of this section, a pitched roof shall be defined as any roof with a slope of 3:12 or steeper and a flat roof shall be defined as any roof with a slope flatter than 3:12.

   b. Maximum Number of Stories. 2, excluding basement garages.

2. Setbacks. The following requirements shall replace the setback requirements of Section 3.6 (F) of the Malibu LIP:

   a. Front Yard Setback. A minimum of 30 feet from the property line.

   b. Side Yard Setback. Cumulatively, a minimum of 160 feet from the property line with a minimum of 70 feet from either side.

   c. Rear Yard Setback. A minimum of 30 feet from the property line except that up to 20% may be not less than 10 feet from the property line.

3. Grading. The following requirement shall replace the grading requirements in Chapter 8 of the Malibu LIP: Notwithstanding other provisions of this Code, grading (total cut and fill) is limited

to 18,000 cubic yards as follows. In conjunction with grading, so that the maximum is not greater than 18,000 cubic yards (exclusive of remedial grading) cut and fill may be allocated as follows:

a. Balanced cut and full up to 18,000 cubic yards; or

b. Export of no more than 18,000 cubic yards; or

c. Import of no more than 9,000 cubic yards, where additional grading on site does not exceed 9,000 cubic yards in conjunction with any landform alteration so that the maximum is no greater than 18,000 cubic yards; or

d. Any combination of the above that does not exceed 18,000 cubic yards.

4. Impermeable Lot Coverage. The following requirements shall replace the impermeable lot coverage requirements of Section 3.6 (I) of the Malibu LIP. Use of permeable surfaces is encouraged, especially for driveways. However, including the primary structures, impermeable surfaces are permitted up to a maximum of 40% of the total lot area for structures, plus a maximum of 30% of the total lot area for driveways, outdoor guest parking and other hardscape (excluding any required, paved fire access road).

5. Structure Size. The following requirements shall replace the structure size requirements of Section 3.6 (K) of the Malibu LIP: The total development square footage shall not exceed 70,000 square feet.

6. Parking. The following requirements shall replace the parking requirements of Section 3.14 of the Malibu LIP: A minimum of 4.2 parking spaces per unit shall be provided of which a minimum of 2 shall be enclosed.

G. Patriot Homes Overlay District

1. Permitted Uses, Multiple-family residential uses.

2. Height.

a. Maximum height: Maximum of twenty-eight (28) feet as measured from the finished grade of first finished floor at elevation thirty-five and one-half (35.5) feet.

b. Maximum number of stories: Two, excluding subterranean garages.

3. Setbacks.

a. Front yard setback: a minimum of thirty-two (32) feet from the property line and a maximum of sixty-five (65) feet.

b. Side yard setback: cumulatively, a minimum of one hundred ten (110) feet with a minimum of eight feet from either side.

4. Structure Size. The total development square footage shall not exceed twenty-six thousand (26,000) square feet.

5. Section 3.6 K2 shall not apply. (Ord. 303 § 3, 2007)

3.4.2 Malibu Bay Company Overlay District (30732 Pacific Coast Highway/APN 4469-026-005)

The Residential Property Development and Design Standards contained in Section 3.6 of the Malibu LIP, as well as all other applicable LCP provisions, shall apply, unless specifically modified by standards detailed in this Section (3.4.2). In addition, the following special site-specific regulations shall apply to the subject property.

A. Public View Corridors

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the following restrictions shall be imposed, and the applicant shall be required to demonstrate that the land owner has executed and recorded a deed restriction that reflects the following restrictions:

1. No less than 20% of the lineal frontage of each created parcel of the subdivision shall be maintained as one contiguous public view corridor in the location shown on the Public View Corridor Plan exhibit for the Overlay District. The view corridor may not be split or reconfigured.

2. No portion of any structure shall extend into the view corridor above the elevation of Pacific Coast Highway.

3. Any fencing across the view corridor shall be visually permeable, and any landscaping within the view corridor shall include only low-growing species that will not block or obscure bluewater views.

4. Vegetation between Pacific Coast Highway and the on-site access road that is within the public view corridors shall include only low-growing species that will not block or obscure bluewater views.

B. View Corridor

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to remove all existing obstructions between Pacific

Coast Highway and the on-site access road that are within the required public view corridors, including vegetation that is over two feet in height above the elevation of Pacific Coast Highway and any fencing or gates that are not visually permeable.

C. Revised Dune Habitat Restoration Plan

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to submit, for review and approval by the City Biologist, a revised "Restoration Plan for Coastal Foredunes, 30732 Pacific Coast Highway" (Read, 2005), that incorporates the following changes and additions:

1. All restoration plants and seeds shall consist of local genotypes. Propagules shall be collected on the project site or from elsewhere along the coast of northern Los Angeles County or southern Ventura County, as close as feasible to the project site.

2. The use of a temporary irrigation line system shall be omitted. Rather, restoration seeds/plants shall be planted during the rainy season. If rainfall is not sufficient and additional irrigation is determined necessary for successful plant establishment, only hand watering may be conducted.

3. The planting plan shall be revised to include all disturbed dune habitat areas as identified in the dune habitat delineation contained in the "Biological Resources Assessment," by Hamilton et al., dated March 6, 2008.

4. A maximum of two, 3-foot wide pathways through the dunes may be established within the dune restoration area, and may only be sited in the area of the existing paths per Figure 2 of the Restoration Plan.

5. Symbolic fencing (post and rope) along the two allowed pathways within the restoration area shall be installed to clearly delineate pathways from restoration areas.

6. The root barrier element of the Restoration Plan shall be omitted.

7. Rear yard fencing shall be installed to delineate developed/setback areas from ESHA/restoration areas.

D. Dune Habitat Restoration Plan Implementation

As a condition of approval of the subdivision of the subject property, the applicant shall be required to implement the Revised Dune Habitat Restoration Plan required pursuant to subsection C above. Restoration shall commence immediately after issuance of the coastal development permit. If permit issuance does not correspond with the rainy season, restoration shall commence during the next rainy season following coastal development permit issuance.

E. Rear Setback

The following standard shall replace the rear setback standards for beachfront parcels in Malibu LIP Section 3.6 (G)(3) and(G)(4):

Rear Setback: New development, including dwellings, decks, patios, etc. shall provide a rear setback that is the most landward of either: (1) the appropriate structure or deck stringline; or (2) no less than 5 feet landward of the landwardmost limit of dune ESHA, which is shown on the Open Space Conservation Easement Area exhibit for the Overlay District.

Separate stringline standards apply to dwellings and decks, as follows:

1. Dwellings: For a dwelling, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast dwelling. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast dwelling.

2. Decks and Patios: For a deck or patio, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast deck or patio. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast deck or patio.

The variance provisions of Malibu LIP Section 13.26 shall not apply to the rear setback requirements of the Malibu Bay Company (30732 Pacific Coast Highway) Overlay.

F. Open Space Conservation Easement

No development, as defined in Section 2.1 of the Malibu LIP, shall occur within the area of the subject property located between the landwardmost limit of ESHA and the ambulatory seawardmost limit of dune vegetation, which is generally shown on the Open Space Conservation Easement Area exhibit, except for dune habitat restoration, the use and maintenance of a maximum of two 3-foot wide pathways, and symbolic fencing to delineate the two pathways.

As a condition of approval of, and prior to issuance of a coastal development permit for, subdivision of the subject property, the applicant shall be required to demonstrate that the land owner has executed and recorded a document in a form and content acceptable to the Coastal Commission, irrevocably offering to dedicate (or grant an easement) to a public agency or private association approved by the Coastal Commission, an open space conservation easement over the area described in the prior paragraph ("open space conservation easement area"), for the purpose of habitat protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on the Open Space Conservation Easement Area exhibit for the Overlay District. The recorded document shall reflect that no development shall occur within the open space easement area except as otherwise set forth in this permit condition. The offer

shall be recorded free of prior liens and encumbrances which the Coastal Commission determines may affect the interest being conveyed. (Ord. 364 § 4(B), 2012)

3.4.3 Custom Development Criteria (Commercial)

A. Purpose

The Overlay meets the intent of LUP Policy 5.17 to provide specific development criteria for parcels within the Civic Center Area. These include land use designations and permitted uses; maximum density and intensity standards, including floor area ratios for commercial use not to exceed the maximum floor area ratio currently allowed pursuant to the LUP where public benefits and amenities are provided as part of the project; development standards, including heights, lot coverage, setbacks, and open space requirements; and provisions for shared or consolidated parking areas.

B. Description of Area Subject to LIP Section 3.4.3

The provisions of this chapter shall apply to the 15.2 acre site currently identified as Los Angeles County Assessor Parcel Numbers 4458-022-023 and 4458-022-024. The site, currently addressed as 3700 La Paz Lane, is surrounded by a largely undeveloped hillside to the northwest, a single-family residence to the northeast, vacant land directly to the east, commercial uses the future Malibu Legacy Park site across Civic Center Way to the south and the Los Angeles County government building complex to the west as indicated on the Overlay Map.

C. Applicability

These implementing measures establish the specific uses and development standards for the commercial development of the site. The Overlay will help guide development toward a “town center” that is geographically centrally located, that provides interdependent uses thereby minimizing trips and enhances the existing civic center uses and permanently establishes a City Hall in the Civic Center.

Where any policy or standard provided in this chapter conflicts with any other policy or standard contained in the City’s General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the LCP, and it is not possible for the development to comply with both the Town Center Overlay and other plan, resolution or ordinance, the policies, standards or provisions contained herein shall govern.

The following special site-specific regulations shall also apply to the subject Overlay:

1. Los Angeles County Waterworks District No. 29.

   Development of any parcel within the Overlay area shall demonstrate that Los Angeles County Waterworks District 29 has reviewed and approved the potable water supply for the proposed development, including water requirements for fire suppression.

2. California Department of Transportation (CalTrans).

   Development of any parcel within the Overlay area shall demonstrate that CalTrans has reviewed the proposed traffic and circulation plans and mitigation measures.

D. Development Agreement

Pursuant to a Development Agreement between the property owner and the City of Malibu, the allowable Floor to Area Ratio (FAR) is increased from 0.15 to 0.20 for the following public benefits:

1. 2.3 acres to be conveyed to the City of Malibu for the purpose of a City Hall or municipal use;

2. $500,000 contribution to the City Hall or municipal use Infrastructure Construction Fund associated with development of the 2.3-acre parcel;

3. A pedestrian and bike path from City Hall throughout the project connecting to Civic Center Way;

4. Offer-to-Dedicate a public trail easement fronting along Civic Center Way (segment of the planned Malibu Pacific Trail/Coastal Slope Trail); and

5. Conceptual architectural plans for the City Hall.

E. Development Standards

Town Center Overlay District

1. La Paz Site: Parcel A

   The following uses and design standards are applicable to the parcel referred to in the La Paz Development Agreement and Zoning Map as "Parcel A Post Lot Line Adjustment."

   a. Permitted Uses. The following uses and structures are permitted within Town Center Overlay District, Parcel A:

i. All uses permitted within the Community Commercial zoning district;

ii. Post offices operated by the Federal Government;

iii. Offices;

iv. Medical offices;

v. Onsite or offsite wastewater treatment facilities;

vi. Parks and playgrounds;

vii. Special events for public congregation or entertainment, which are temporary in nature;

viii. Other uses determined by the planning director to be of a similar nature to uses permitted in this district.

b. Prohibited Uses. The following uses are specifically prohibited:

i. Fast food restaurants with drive-thru facilities;

ii. Liquor stores (stand alone);

iii. Adult book stores;

iv. Hazardous waste facilities;

v. Gas stations.

c. Conditionally Permitted Uses. The following uses may be permitted subject to obtaining a Conditional Use Permit in accordance with the requirements of the City's Zoning Code:

i. Restaurants;

ii. Cocktail lounges, ancillary to restaurant use;

iii. Cultural and artistic uses (museums, galleries, and performing arts studios);

iv. Live entertainment scheduled to occur after 7:00 p.m. Live entertainment scheduled prior to 7:00 p.m. shall require a Temporary Use Permit;

v. Nursery schools and day care facilities;

vi. Veterinary hospitals;

vii. Churches, temples, mosques and other places of worship;

viii. Hand car washing and detailing;

ix. Wireless telecommunications antennae and facilities;

x. Emergency communication and service facilities.

d. Development Standards

Maximum Floor Area Ratio (F.A.R.)	0.20 cumulative maximum F.A.R. for Parcels A, B, and C
Minimum Front Yard Setback	10% of average lot depth
Minimum Rear Yard Setback	15% of average lot depth
Minimum Side Yard Setback	10% of average lot width
Minimum Side Yard Setback (Cumulative)	25% of average lot width
Maximum Building Height	32′ from finished grade for Buildings 5 and 6; 28′ from finished grade for all other buildings
Minimum Onsite Landscaping	35% of cumulative lot area for Parcels A, B, and C
Minimum Onsite Open Space	17% of cumulative lot area for Parcels A, B, and C
Maximum Grading	2,000 cubic yards of grading per acre excluding all exempt and remedial grading
Parking Requirements	1 space/250 square feet of office 1 space/200 square feet of retail/restaurant – shopping center
Parking Location	Entire site and subterranean. Compact spaces permitted in accordance with existing code requirements. Shared parking permitted in accordance with LIP Section 3.12.4.
Monument Sign and General Sign Requirements	Monument signs shall be permitted in accordance with the provisions of Section 3.15.6. of the LIP with the following modifications made to the provisions of that section: The provisions of LIP Section 3.15.6.A.7 shall not apply. Monument signs shall be permitted up to a maximum of 48 square feet excluding the base area supporting the sign. One monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setback requirements from rights of way or property lines for monument signs. Address monument signs shall be permitted up to a maximum

	of 16 square feet excluding the base. One address monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setbacks required from rights of way or property lines for monument signs.

2. La Paz Site: Parcel B

The following uses and design standards are applicable to the parcel referred to in the La Paz Development Agreement and Zoning Map as "Parcel B Post Lot Line Adjustment."

a. Permitted Uses. The following uses and structures are permitted within Town Center Overlay District, Parcel B:

i. All uses permitted within the Community Commercial zoning district;

ii. Post offices operated by the Federal Government;

iii. Offices;

iv. Medical offices;

v. Onsite or offsite wastewater treatment facilities;

vi. Other uses determined by the planning director to be of a similar nature to uses permitted in this district.

b. Prohibited Uses. The following uses are specifically prohibited:

i. Fast food restaurants with drive-thru facilities;
ii. Liquor stores (stand alone);

iii. Adult book stores;

iv. Hazardous waste facilities;

v. Gas stations.

c. Conditionally Permitted Uses. The following uses may be permitted subject to obtaining a Conditional Use Permit in accordance with the requirements of the City's Zoning Code:

i. Cultural and artistic uses, such as museums, galleries, and performing arts;

ii. Live entertainment that occurs after 7:00 p.m. Live entertainment scheduled prior to 7:00 p.m. shall require a Temporary Use Permit;

iii. Nursery schools and day care facilities;

iv. Veterinary hospitals;

v. Churches, temples, mosques and other places of worship;

vi. Hand car washing and detailing;

vii. Wireless telecommunications antennae and facilities;

viii. Emergency communication and service facilities;

ix. Parks and playgrounds;

x. Special events for public congregation or entertainment, which are temporary in nature.

d. Development Standards

Average Lot Width (minimum required)	238 feet
Average Lot Depth (minimum required)	500 feet
Maximum Floor Area Ratio (F.A.R.)	0.20 cumulative maximum F.A.R. for Parcels A, B, and C
Minimum Front Yard Setback	20% of average lot depth
Minimum Rear Yard Setback	15% of average lot depth
Minimum Side Yard Setback	10% of average lot width
Minimum Side Yard Setback (Cumulative)	25% of average lot width
Maximum Building Height	28 feet from finished grade
Maximum Perimeter Wall Height	10 feet from average grade
Minimum Onsite Landscaping	35% of cumulative lot area for Parcels A, B, and C
Minimum Onsite Open Space	17% of cumulative lot area for Parcels A, B, and C
Maximum Grading	2,500 cubic yards per acre excluding all exempt and remedial grading
Parking Requirements	1 space/250 square feet. of office 1 space/200 square feet of retail/restaurant – shopping center
Parking Location	Entire site and subterranean. Compact spaces permitted in accordance with existing code requirements. Shared parking permitted in accordance with LIP Section 3.14.4.
Monument Sign	Monument signs shall be permitted in accordance with the provisions of Section 3.15.6. of the LIP with the following

	modifications made to the provisions of that section: The provisions of LIP Section 3.15.6.A.7 shall not apply. Monument signs shall be permitted up to a maximum of 48 square feet excluding the base area supporting the sign. One monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setback requirements from rights of way or property lines for monument signs. Address monument signs shall be permitted up to a maximum of 16 square feet excluding the base. One address monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setbacks required from rights of way or property lines for monument signs.

3. La Paz Site: Parcel C

The following uses and design standards are applicable to the parcel referred to in the La Paz Development Agreement and Zoning Map as "Parcel C Post Lot Line Adjustment":

a. Permitted Uses. The following uses and structures are permitted within Town Center Overlay District, Parcel C:

i. All uses permitted within the Community Commercial zoning district;

ii. Post offices operated by the Federal Government;

iii. Offices;

iv. Medical offices;

v. Onsite or offsite wastewater treatment facilities;

vi. Community centers;

vii. Parks and playgrounds;

viii. Special events for public congregation or entertainment, which are temporary in nature;

ix. Other uses determined by the planning director to be of a similar nature to uses permitted in this district.

b. Prohibited Uses. The following uses are specifically prohibited:

i. Fast food restaurants with drive-thru facilities;

ii. Liquor stores (stand alone);

iii. Adult book stores;

iv. Hazardous waste facilities;

v. Gas stations.

c. Conditionally Permitted Uses. The following uses may be permitted subject to obtaining a Conditional Use Permit in accordance with the requirements of the City's Zoning Ordinance:

i. Restaurants;

ii. Cocktail lounges, ancillary to restaurant use;

iii. Cultural and artistic uses, such as museums, galleries, and performing arts studios;

iv. Live entertainment that occurs after 7:00 p.m. Live entertainment scheduled prior to 7:00 p.m. shall require a Temporary Use Permit;

v. Nursery schools and day care facilities;

vi. Veterinary hospitals;

vii. Churches, temples, mosques and other places of worship;

viii. Hand car washing and detailing;

ix. Wireless telecommunications antennae and facilities;

x. Emergency communication and service facilities.

d. Development Standards

Minimum Lot Size	2.3 acres
Average Lot Width (minimum required)	350 feet
Average Lot Depth (minimum required)	141 feet
Maximum Floor Area Ratio (F.A.R.)	0.20 cumulative max F.A.R. for Parcels A, B, and C
Minimum Front Yard Setback	10% of average lot depth
Minimum Rear Yard Setback	9% of average lot depth.
Minimum Side Yard Setback	10% of average lot width.
Minimum Side Yard Setback (Cumulative)	25% of average lot width
Maximum Building Height	28 feet from finished grade
Minimum Onsite Landscaping	35% of cumulative lot area for Parcels A, B, and C
Minimum Onsite Open Space	17% of cumulative lot area for Parcels A, B, and C
Maximum Grading	3,000 cubic yards per acre excluding all exempt and remedial grading.
Structures Sited on Slopes	Structures may be sited on slopes as great as, but no greater than 1:1
Parking Requirements	Government facility/offices (1 space/250 square feet) Council Chamber is a reciprocal/conjunctive use, no additional parking required
Parking Location	Entire site and subterranean. Compact spaces permitted in accordance with existing code requirements. Shared parking permitted in accordance with the Zoning Code.
Monument Sign	Monument signs shall be permitted in accordance with the provisions of Section 3.15.6. of the LIP with the following modifications made to the provisions of that section: The provisions of LIP Section 3.15.6.A.7 shall not apply. Monument signs shall be permitted up to a maximum of 48 square feet excluding the base area supporting the sign. One monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setback requirements from rights of way or property lines for monument signs. Address monument signs shall be permitted up to a maximum of 16 square feet excluding the base. One address monument sign shall be permitted for every parcel of land that exceeds 2 acres in size. There shall be no setbacks required from rights of way or property lines for monument signs.

3.4.4 Civic Center Wastewater Treatment Facility (CCWTF) Institutional Overlay District (24000 Civic Center Way/APNs 4458-028-060 and 4458-028-020).

A. The provisions of this section shall only apply in the event the CCWTF Overlay property is acquired by a public agency or special district and committed to use for the Civic Center Wastewater Treatment Facility.

B. The Institutional Development Standards contained in LIP Section 3.9, as well as all other applicable certified LCP policies and provisions, shall apply, unless specifically modified by this section.

C. Siting

1. Environmentally Sensitive Habitat Area. The CCWTF is a necessary water supply project with incidental public service components (per LIP Section 18.10(B)). The project shall comply with applicable provisions of LIP Chapter 4, such as, but not limited to, siting the project to avoid impacts to ESHA and to provide the minimum required ESHA buffers, except as otherwise provided below:

a. CCWTF treatment plant site. LIP Section 4.6.4(A) (Variances) shall not apply and a reduced ESHA buffer may be allowed if there is no feasible alternative for siting the development and all of the following requirements are met:

i. The treatment plant facilities are sited within the previously approved and disturbed development area to the maximum extent feasible.

ii. The required driveway is located along the existing unpaved driveway to the maximum extent feasible.

iii. Any required fuel modification that encroaches into ESHA buffer is limited to thinning only.

iv. Any onsite pipelines and equipment that must be located within 100 feet of ESHA shall be installed under pavement or within previously disturbed areas to the maximum extent feasible.

v. The square footage of reduced ESHA buffer area is offset with ESHA restoration of an area of degraded habitat equivalent to the affected area. Wetland impacts shall be mitigated with the appropriate mitigation ratio pursuant to LIP Section 4.8.2. The ESHA and/or wetland enhancement shall be incorporated into the site landscape plan reviewed and approved by the City Biologist.

2. Native Trees. The project shall be designed to avoid impacts to protected native trees as defined in LIP Chapter 5; however, where impacts to protected native trees cannot be feasibly be avoided, impacts shall be minimized. Such impacts shall only be allowed if, as a condition of approval of a coastal development permit for the development, the applicant shall be required to: 1) implement a tree protection plan prepared in accordance with LIP Section 5.3 and approved by the City Biologist for trees that will not be removed; and 2) if no feasible alternative can prevent tree removal, the applicant shall submit a native tree replacement planting program required by LIP Section 5.5.1 or if onsite mitigation is not feasible, mitigation shall be provided by either offsite mitigation or payment of an in lieu fee as required by LIP Section 5.5.2 for trees that are removed.

D. Yards/Setbacks. LIP Section 3.9(A)(2) shall apply except that the front yard setback shall be 5 feet.

E. Height. LIP Section 3.9(A) shall apply except that structure height up to 28 feet shall be allowed without the requirement of a site plan review under LIP Section 13.27.1(A)(8).

F. Fencing and Walls. LIP Section 3.5.3(A) shall apply except that the portion of fence above 42 inches in height within any required yard need not be open/permeable where it serves as screening for structures or equipment. Vegetative screening within or outside of required yards shall not be limited in height except where such screening would significantly obstruct public views of scenic areas. Additionally, single retaining walls within required yards may extend to a height of up to 6 feet, so long as such walls incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape when they are visible from a scenic highway, public viewing areas, trails, and parks.

G. Parking and Loading. LIP Sections 3.14.5 and 3.14.6 shall not apply.

H. Grading. LIP Chapter 8 shall apply except that a single retaining wall up to a height of 12 feet shall only be allowed when stepped or terraced, and no more than 6 feet in height is visible from ground level, and all grading associated with access driveways shall be included in the exception from grading limitations of LIP Section 8.3(I).

I. Visual Impacts/Screening. Structures and equipment shall be designed to minimize visual impacts using methods including, but not limited to: locating development below ground level where possible; utilizing landscape screening to soften views of the development and allow it to blend with the surrounding environment; and incorporating design measures like walls, fencing, and building and lighting orientations that help screen site development from scenic highways, public viewing areas, trails, parks and avoid light spill into ESHA. (Ord. 393 § 4, 2015; Ord. 346 § 3, 2010; Ord. 329 § 4, 2008)

3.4.5 Affordable Housing Overlay District

A. Purpose and Applicability. The Affordable Housing Overlay (AHO) District is intended to identify sites within the City where affordable housing developments may be established and maintained in compliance with this section. In addition to (and not as a limitation of) uses allowed within the under-

lying zoning district and any other applicable overlay, each property within the AHO District may be developed with an Affordable Housing Development, subject to the provisions set forth below. All requirements for the Malibu LIP that are not inconsistent with the criteria listed below shall remain in effect for those parcels in the Affordable Housing Overlay.

B. Description of Area Subject to LIP Section 3.4.5.

Table 1 – AHO District Sites		
Site Number	APNs	Address
1	4467-013-022 and 4467-013-023	28517 Pacific Coast Highway and adjacent vacant lot
2	4467-012-005	28401 Pacific Coast Highway
3	4458-022-023 and 4458-022-024	A 2.3 acre portion of 23465 Civic Center Way (La Paz Site and formerly known as 3700 La Paz Lane)

C. Permitted Uses.

1. Affordable housing development is permitted in the AHO subject to the development standards set forth in this Section. Specifically, on AHO Site Number 3 (2.3 acre portion of 23465 Civic Center Way also known as the La Paz site) an affordable housing development is only permitted if the affordable housing development is either directly developed/constructed by the City, or if the City partners with an affordable housing developer; and eighty percent (80%) of the units are affordable for lower and moderate households, to serve as a public benefit to the City.

D. Standards. The Residential Development Standards contained in Section 3.6 of the Malibu LIP, as well as all other applicable LCP provisions, shall apply, unless specifically modified by standards detailed in this Section (3.4.5). The following special specific regulations shall apply to the AHO sites identified in Table 1 above.

1. Density. Affordable housing developments in the AHO shall:

a. Have a minimum density of twenty (20) units per net acre.

b. Have a maximum density of one dwelling unit per 1,613 square feet of lot area including the additional density bonus pursuant to Section 3.7.1 of the Malibu LIP.

c. Have a minimum of sixteen (16) dwelling units.

d. For Sites 1 and 2, all units in excess of the permitted base density of 6 dwelling units per acre, shall be affordable to lower and moderate income households as set forth in Subsection

F below. A minimum of fifty percent (50%) of all units in excess of the 6 dwellings units per acre shall be deed restricted ("restricted units") as very-low or low-income multi-family dwelling units. For Site 3, eighty percent (80%) of the units within an affordable housing development, exclusive of a manager's unit or units, shall be affordable to lower and moderate income households as set forth in Subsection F below. A minimum of fifty percent (50%) of the affordable units shall be deed restricted as very-low or low-income multi-family dwelling units.

E. Development Standards.

1. Site of Construction. Structures may be constructed on slopes flatter than 1½:1.

2. General Guidelines. The lower-income multi-family dwelling units required under this Section:

a. May either be rental or for-sale dwellings;

b. Shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to non-restricted units;

c. May be comprised of up to thirty-three percent (33%) less square footage than market rate units of the same bedroom count;

d. The construction materials and practices shall be comparable to those used for the market rate units;

e. The exterior grounds shall be landscaped and well maintained; and

f. The units shall be disbursed throughout the project site and not clustered in a single location.

F. Affordability.

1. Rental units. Prior to the issuance of any building permit for an Affordable Housing Development in the AHO, the property owner shall enter into and record an Affordable Housing Agreement per Section 3.7.2 of the Malibu LIP for a period of not less than fifty-five (55) years.

2. For-sale or owner-occupied units. Prior to the issuance of any building permit for an Affordable Housing Development in the AHO, the property owner shall enter into and record in the office of the Los Angeles County Recorder a covenant in a form approved by the City restricting future sale prices to levels affordable to lower-income households and including procedures for verifying and maintaining compliance with income eligibility requirements for a period of not less than fifty-five (55) years. (Ord. 449 § 4, 2019)

3.5. GENERAL REGULATIONS/DEVELOPMENT STANDARDS

3.5.1 Purpose

The following Standards are intended to ensure that new or modified uses and development conform to the policies of the City's Local Coastal Program Land Use Plan.

3.5.2 Applicability

Any development requiring a Coastal Development Permit which authorizes new construction or modifications to an existing structure, shall be subject to all of the applicable property development and design standards set forth below.

3.5.3 General Development Standards

The following standards shall apply in all zoning districts:

A. Hedges, Fences and Walls. Hedges, fences and walls may be erected and maintained in required yards subject to the requirements specified herein:

1. Front Yards: Fences and walls within a required front yard shall not exceed a height of forty-two (42) inches with the exception of open/permeable, non-view-obscuring fencing which may extend to a maximum height of six feet. Fencing on Institutionally-zoned parcels may extend to a maximum height of eight feet if the portion above forty-two (42) inches is constructed of open/permeable, non-view-obscuring material.

2. Corner Side Yards: Fences and walls within a required corner side yard shall not exceed forty-two (42) inches in height where closer than five feet to the right-of-way line, nor exceed six feet in height where five feet or more from said right-of-way line. Fencing on Institutionally-zoned parcels may extend to a maximum height of eight feet if the portion above forty-two (42) inches is constructed of open/permeable, non-view-obscuring material.

3. Interior Side and Rear Yards: Fences, walls and hedges forming a barrier and serving the same purpose as a fence or wall within a required interior side or rear yard shall not exceed six feet in height; provided, however, that on the street or highway side of a corner lot such hedge, fence or wall shall be subject to the same requirements as for a corner side yard. Fencing on Institutionally-zoned parcels may extend to a maximum height of eight feet if the portion above forty-two (42) inches is constructed of open/permeable, non-view-obscuring material.

4. Retaining Walls: Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet, are permitted in all yards.

5. Retaining Walls Topped with Walls or Fences:

a. Where a retaining wall protects a cut below the natural grade and is located on a front, side, or rear lot line, such retaining wall may be topped by a fence or wall of the same height that would, otherwise, be permitted at the location if no retaining wall existed. Where such retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributed to the permissible height of a fence or wall; providing, however, that in any event an open/permeable, non-view-obscuring fence of forty-two (42) inches may be erected at the top of the retaining wall for safety protection.

b. Where a wall or fence is located in the required yard adjacent to a retaining wall containing a fill, such wall or fence shall be set back from said retaining wall a distance of one foot for each one foot in height, to a maximum distance of six feet; provided, however, that this does not permit a wall or fence in required yards higher than permitted by this section. The area between such wall or fence and said retaining wall shall be landscaped and continuously maintained in good condition.

6. Fences and Walls Exempted: Where a fence or wall exceeding the heights specified is required by any law or regulation of the State of California, a fence or wall not exceeding such required height is permitted.

7. Measurement of Fences and Wall Height: The height of a fence or wall shall be measured at the highest ground level within three feet of either side of said wall or fence. In order to allow for variation in topography, the height of a required fence or wall may vary an amount not to exceed six inches; provided, however, that in no event shall the height of such fence or wall exceed the maximum height specified.

8. Notwithstanding the other provisions of this section, the Director may permit fences or walls within any required yard on flag lots to a height not to exceed six feet, pursuant to the provisions of Section 13.26 of the Malibu LIP (Variances and Modifications).

9. All fencing enclosing more than a half acre of a residentially zoned parcel shall be open/permeable, non-view-obscuring.

10. All sports court fencing within required yards shall be subject to the provisions of this chapter. Such fencing, or other freestanding walls or fencing outside of the required yards, shall not exceed twelve (12) feet in height. Fences shall be visually permeable unless non-permeable fences are approved pursuant to Section 13.27 of the Malibu LIP (Site Plan Review).

11. Hedges and flammable fences and walls are prohibited within five feet of a building. For fences and walls, the distance shall be measured from the outermost projection of the building to the fence or wall, including eaves, overhangs, and second floor balconies. For hedges, the distance shall be measured from the outermost projection of the buildings to the canopy of the hedge at its projected maturity, including eaves, overhangs, and second floor balconies.

B. Projections into Yards:

1. Architectural projections including eaves, awnings, louvers, and similar shading devices; sills, belt courses, cornices, and similar features, may not project more than six feet into a required yard, provided that the distance between an architectural projection and a property line shall not be less than three feet.

2. Oriel or bay windows and chimneys may not project more than three feet into a required yard, provided that the projection does not extend closer than three feet to the property line and provided that the total width of oriel or bay windows shall not exceed fifty (50) percent of the length of the wall on which they are located or ten (10) feet, whichever is less.

3. Unroofed porches, steps, and terraces may project into a required yard up to a point not closer than three feet to a property line, provided, that the height including railings shall not exceed six feet above the grade of the ground at the property line.

4. Balconies, decks, terraces which are at least six feet above grade, may not project more than six feet into a required yard, and shall provide at least three feet of required yard. Such structures shall be cantilevered or supported only by columns. A balcony or deck projecting from a higher story may extend over a lower balcony or deck but shall not in such case be deemed a roof for the lower balcony or deck.

5. Open, unenclosed fire escapes and fireproof outside stairways may project into any required yard a maximum of four feet; provided, that no yard shall be reduced to less than three feet.

6. Underground structures, such as swimming pools, may project without limit into any required yards; provided, that such structures shall not have a height of more than two and one-half feet above adjacent grade and shall not be located closer than five feet to any property line, or main structure.

7. Arbors and trellises having a supporting structure with beams less than four inches thick may extend into any yard area up to a point no closer than three feet to any property line.

8. Accessory Structures and Equipment located in the rear and side yards subject to the following limitations:

    a. Ground-mounted pool equipment, air conditioners and built-in barbecues, provided that the equipment shall not be located closer than three feet to the property line. Ground mounted pool and air conditioning equipment must be screened by a solid wall or fence on all sides, except in cases where the equipment is located next to a dwelling, in which case the equipment must be screened on the three sides not adjacent to the dwelling.

    b. Rain conductors, spouts, utility-service risers, and shut-off valves, may project a maximum distance of one foot into any required yard.

c. Water heaters, water softeners and gas or electric meters, including service conduits and pipes, adequately screened, may project a maximum distance of two and one-half feet, provided that such structures or equipment are not closer than three feet to any lot line.

d. Wall and window mounted air conditioners, coolers and fans may be used in any required yard, provided that such equipment is not closer than three feet to any lot line.

e. Guard railings or fences for safety protection around depressed ramps may be placed in any yard provided such railing or fence does not exceed a height of three and one-half feet.

f. Driveways, walkways, patio slabs and other areas constructed of concrete, asphalt or similar materials and wooden decks may be used in any required yard provided that such structures do not exceed one foot above ground level. Decks over one foot high shall be regulated by Section 3.5.3(B)(3) of the Malibu LIP. This provision shall not exclude the use of steps providing access between areas of different elevation on the same property.

C. Accessory Uses: Accessory uses identified as being permitted within any zone may be established only if they are accessory and clearly indicated to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use. (Ord. 461 § 6, 2020; Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.6. RESIDENTIAL DEVELOPMENT STANDARDS

All single-family and multiple-family residences shall be subject to the following development standards:

A. Every residence shall have a roof constructed with roofing material in compliance with a rating as specified by Title 15 of the Malibu Municipal Code;

B. Every residence shall have an exterior siding of brick, wood, stucco, metal, concrete or other similar material, except that reflective, glossy, polished and/or roll-formed type metal siding is prohibited;

C. Except as specifically provided herein, every single-family residence shall be not less than twenty (20) feet in width. A single-family residence need only be a minimum of eighteen (18) feet wide when it is to be located on a lot or parcel of land less than twenty-six (26) feet in width. In order to allow for flexibility and creativity of design, a single-family residence may be less than twenty (20) feet wide, but not less than twelve (12) feet, if the floor area, exclusive of appurtenant structures, is at least nine hundred (900) square feet and the side or sides oriented toward a public street, highway or parkway have a dimension of at least twenty (20) feet. Additions to single-family residences are not restricted as to width;

D. The minimum floor area of a residential unit shall be as follows:

1. For a single-family residence, not less than eight hundred (800) square feet, exclusive of any appurtenant structures.

2. For each multifamily dwelling unit, not less than three hundred (300) square feet, exclusive of any appurtenant structures.

E. Height.

1. Non-beachfront lots. Every residence and every other building or structure associated with a residential development, including satellite dish antenna, shall not be higher than 18 feet above natural or finished grade, including rooftop, parapet and deck walls and railings, whichever results in a lower building height, except for chimneys and rooftop antenna other than satellite dish antenna.

2. Notwithstanding any provision of this section, the Manager may issue a development permit, pursuant to Section 13.27 of the Malibu LIP (Site Plan Review), to allow heights up to 24 feet for flat roofs and 28 feet for pitched or sloped roofs. In no event shall the maximum number of stories above grade be greater than two.

3. Beachfront lots. For new construction on a beachfront lot, no residence or structure, including satellite dish antenna, shall exceed 24 feet for flat roof including solid rooftop, parapet and deck walls, and 28 feet for pitched roof, as measured from the lowest recommended finish floor elevation on the ocean side, as defined by a licensed Civil Engineer, based upon a Comprehensive Wave Action Report, and 24 feet for a flat roof and 28 feet for pitched roof as measured from center line of the road on the land side. Building height shall be apportioned such that the portion of the building which height is measured from the centerline of the road shall not exceed half of the total length (front to rear) of the structure. Open railings for rooftop decks on structures with a flat roof may extend 25 feet in height.

For an addition to an existing structure, the height shall be measured from the bottom of the first floor diaphragm on the ocean side, or the lowest recommended finish floor elevation, whichever is lower, and the center line of the road on the land side.

F. Non-Beachfront Yards/Setbacks. The following yard/setback requirements apply to all lots, except beachfront lots:

1. Front yard setbacks shall be at least 20% of the total depth of the lot, or 65 feet, whichever is less.

2. Side yard setbacks shall be cumulatively at least 25% of the total width of the lot but, in no event, shall a single side yard setback be less than 10% of the width of the lot or 5 feet, whichever is greater.

3. Rear yard setbacks shall be at least 15% of the lot depth or 15 feet whichever is greater.

4. For the purpose of calculating yards, slopes equal to or greater than 1:1 shall not be included in the lot dimensions.

5. Modifications to required yards/setbacks standards shall be permitted where necessary to avoid or minimize impacts to sensitive resources.

6. Setbacks from parklands. New development adjacent to parklands, where the purpose of the park is to protect the natural environment and ESHA, shall be sited and designed to minimize impacts to habitat and recreational opportunities, to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.

    a. New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required park buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.

    b. Variances or modifications to park buffer standards shall not be granted except where there is no other feasible alternative for siting the primary structure. In such cases, one primary structure shall be the only permitted development on the site, and the structure shall be restricted in size and designed to maximize the buffer standard to the maximum extent feasible.

    c. Permitted development located within or adjacent to parklands that adversely impact those areas may include open space or conservation restrictions or easements over parkland buffer in order to protect resources.

7. Setbacks shall also be in compliance with Article VIII of the Malibu Municipal Code (Building Code).

G. Beachfront Yards/Setbacks. Notwithstanding the above requirements, the following yard requirements apply to beachfront lots:

1. Front. 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. Side. 10% of lot width on each side, with a 3 feet minimum and 5 feet maximum, except as required for view corridors under Section 6.5 (E)(2) of the Malibu LIP.

3. Rear. Setbacks for infill development are determined by the stringline rule. Separate setback standards apply to dwellings and decks, as indicated below. The stringline method shall apply only to infill development and where it will not result in development which would require a shoreline protection structure at any time during the life of the project, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible.

    a. Dwellings. For a dwelling, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast dwelling. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast dwelling.

b. Decks and patios. For a deck or patio, new construction shall not extend seaward of a stringline drawn from a point on the closest upcoast and downcoast deck or patio. The stringline point shall be located on the nearest adjacent corner of the upcoast and downcoast deck or patio.

c. All infill development shall be set back a minimum of 10 feet landward from the most landward surveyed mean high tide line on the parcel. The location of the mean high tide shall be determined in consultation with the State Lands Commission.

4. Stringline modification. Where the application of the stringline rule results in a stringline substantially inconsistent with adjacent development, the applicant may apply for a minor modification pursuant to LIP Section 13.27.1(B)(3). Alternatively, the applicant may apply for a variance pursuant to LIP Section 13.26.

5. Accessory structures. No accessory structure (including, without limitation, a gazebo, cabana) may project seaward of the dwelling stringline.

6. Swimming pools and spas. Pools and spas may project seaward of the dwelling stringline, but in no case may they project seaward of the deck stringline.

7. Stairways. Stairways from decks to the beach may not project seaward of the deck stringline.

8. Fences. Fences, shall not project seaward of the structure stringline, with the exception of any required safety railing around decks that is a maximum of 42 inches in height, and fencing constructed of transparent material such as plexiglass.

9. Shoreline protective devices. A shoreline protective device shall be permitted only if the Planning Manager and the Building Official determine that the device is necessary to protect an existing structure as defined in paragraphs L. and M. of Section 10.4 of the LIP or an existing or new sewage disposal system. A shoreline protective device shall be located as far landward as possible, consistent with the provisions of Chapter 10 of the Malibu LIP.

10. Bluffs. Setbacks shall be consistent with the requirements of Chapter 10 of the Malibu LIP.

H. Development Area. Except for an affordable housing development within the AHO Overlay, every residential development shall be contained within a convex-shaped enclosure that shall not exceed 2 acres, except where otherwise restricted by provisions of the ESHA Overlay Chapter (Chapter 4), Scenic and Visual Resources Chapter (Chapter 6), or Grading Chapter (Chapter 8) of the Malibu LIP.

I. Single Family.

1. Use of permeable surfaces is encouraged, especially for driveways. However, including the primary structure, impermeable surfaces are permitted for residential lot areas (excluding slopes equal to or greater than 1:1), up to 1/4 acre at 45%; for lot areas greater than 1/4 acre but a 1/2 acre or less, at 35% and for lots greater than 1/2 acre at 30% up to a maximum of 25,000 square feet. Beachfront lots shall not be subject to this Paragraph.

2. Multi-family. 25% of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to landscaping. "Green or living walls" shall not be considered landscaping for the purpose of this paragraph. The required 5 foot landscape buffer around the perimeter of parking areas pursuant to Section 3.12.5(E)(1) of the Malibu LIP shall count toward the 25% requirement. An additional 5% of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to permeable surfaces.

J. Site of Construction. Structures may be constructed on slopes greater than 3:1 but less than 2 1/2:1 subject to the provisions of Section 13.27 of the Malibu LIP (Site Plan Review).

K. Residential Structure Size. Except as specifically provided herein and where otherwise restricted by provisions of the ESHA Overlay Ordinance (Chapter 4), of the Malibu LIP, and as indicated on the Total Development Square Footage Structure Size Chart, the total development square footage associated with the construction of a single-family residence on a legal lot equal to or greater than 5 acres shall not exceed a total of 11,172 square feet. On lots 5,000 square feet or less, the total development square footage shall not exceed 1,885 square feet. Total development square footage shall be determined based on the following formula (slopes equal to or greater than 1:1 shall be excluded from the lot area calculation): for lot areas up to 1/2 acre, total square footage shall be 17.7% of lot area plus 1,000 square feet; for lot areas greater than 1/2 acre and up to 1 acre, total development square footage shall be increased by 10% of the amount of lot area exceeding 1/2 acre; for lot areas greater than 1 acre and up to 1 1/2 acre, total development square footage shall be increased by 5% of the amount of lot area exceeding 1 acre; for lot areas greater than 1 1/2 acres and up to 5 acres, total development square footage shall be increased by 2% of the amount of the lot area exceeding 1 1/2 acres. For the purposes of this subsection, arbors or trellis open to the sky shall not be calculated as part of the total development square footage. Beachfront lots shall be exempt from the total development square footage provisions of this paragraph.

For construction of a multi-family residence, except as specifically provided herein and where otherwise restricted by provisions of the ESHA Overlay Ordinance (Chapter 4) of the Malibu LIP, the TDSF associated with the construction of a multi-family residence on a legal lot shall be limited by the maximum density permitted onsite, the required setbacks, and the maximum height allowed.

For both single-family and multi-family residences the following standards apply:

1. Single-Story Floor Area. Notwithstanding any other provision of this chapter, the total development square footage for single-story structures at or below 18 feet is determined according to the above formula.

2. Multi-Story or Single Floor Area, Structures Greater Than 18 Feet In Height. Notwithstanding any other provision of this Chapter, the total development square footage for a structure greater than 18 feet in height shall not be greater than permitted for single-story construction. Any portion of the structure above 18 feet in height shall not exceed 2/3rds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

3. Basements. The square footage of a basement shall be included in the calculation of total development square footage (TDSF), consistent with the following formula: The initial one-thousand (1,000) square feet of a basement shall not count toward TDSF; additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at the rate of one (1) square foot of TDSF for every two (2) square feet of proposed basement square footage. A basement shall be located beneath or partially beneath the first floor footprint of the structure above. Any portion of a basement wall extending beyond the first floor footprint above shall be non-daylighting. All basements shall be limited to one floor level, not to exceed twelve (12) feet in height. Any grading required for that portion of a basement not under the first floor footprint above shall be subject to the provisions of Chapter 8 of the LIP. Those areas of a basement that extend beyond the first floor footprint above shall be subject to the impermeable coverage development standards contained in LIP Section 3.6 I. Basements shall not be constructed in beachfront parcels. However, subterranean equipment vaults not containing habitable space may occupy a landward area of a beachfront parcel that is not required for the construction of the OWTS and as long as the vault does not require a shoreline protection structure.

4. Subterranean Garage. The square footage of a subterranean garage shall be included in the calculation of total development square footage (TDSF), consistent with the following formula: the initial one-thousand (1,000) square feet of a subterranean garage shall not count toward TDSF; additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed. All subterranean garages shall be limited to one floor level not to exceed twelve (12) feet in height. A subterranean garage shall be located beneath or partially beneath the first floor footprint above. Any portion of a subterranean garage wall extending beyond the first floor footprint above shall be non-daylighting. A subterranean garage shall be allowed only one opening for vehicular ingress and egress with a maximum continuous width of thirty-six (36) feet, not including up to two support columns not exceeding eighteen (18) inches in width each. Except for lots with a subterranean garage having an entry not facing and not visible from an abutting street frontage, only one story shall be located above the opening for vehicular ingress and egress for a width equal to the width of said opening. Any grading required for that portion of a subterranean garage not under the first floor footprint above shall be subject to the provisions of Chapter 8 of the LIP. Those areas of a subterranean garage that extend beyond the first floor footprint above shall be subject to the impermeable coverage development standards contained in LIP Section 3.6 I. Subterranean garages shall not be constructed on beachfront parcels.

5. Cellar. The square footage of a cellar shall be included in the calculation of total development square footage (TDSF), consistent with the following formula: the initial one-thousand (1,000) square feet of the cellar area shall not count toward TDSF; additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed. All cellars shall be subject to the provisions of LIP Section 3.6 I, Impermeable coverage. Any grading required for the development of a cellar shall be subject to the provisions of Chapter 8 of the LIP. All cellars shall be limited to one floor level not to exceed twelve (12) feet in height. Cellars shall not be constructed on beachfront parcels.

6. Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward total development square footage (TDSF). Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

L. Neighborhood Standards. Notwithstanding any other provision of this Section, upon application and pursuant to Section 13.27 of the Malibu LIP, the Planning Commission may approve or conditionally approve increased height, structure size and/or development area and/or decreased setbacks, except in the case of ESHA buffers or setbacks, bluff setbacks, view corridors, or height restrictions to minimize impacts to visual resources, where such modifications do not exceed the neighborhood standards, and where the Planning Commission affirmatively makes all the findings set forth in Section 13.27.5 of the Malibu LIP.

1. Neighborhood Standards apply where there are at least 10 developed lots within a 500-foot radius of the subject site located in the same neighborhood. A neighborhood is defined by the presence

of such features as common access, beachfront or landside orientation or by being a part of the same subdivision or development, or by being within the same proximate area of the City with no intervening major natural or man made physical features such as major roads or flood control channels, canyons, watercourses, hills, ridges or mountains, and sharing similar zoning and other development characteristics such as lot and house size.

2. For the purpose of this Section, "neighborhood standards" means the average structure size and/or development, setback, or height, of at least 80 percent of all the legal lots developed with a single-family residence within a 500-foot radius of the subject site located in the same neighborhood. In such cases the 80 percent shall be determined by excluding the smallest 10 percent and the largest 10 percent of lots in terms of structure size and/or development area and height, and the smallest 20 percent of lots in terms of yard setbacks.

M. Temporary Mobilehomes or Trailers. Mobilehomes or trailers used as a residence during construction or in anticipation of reconstruction of residences destroyed due to natural disaster, shall comply with the following conditions:

1. No more than one dwelling unit shall be permitted.

2. The mobilehome or trailer shall not exceed 24 feet in width.

3. No additional grading shall be allowed beyond that permitted as part of the development plan.

4. The mobilehome incorporates compatible colors with the neighborhood and includes skirting along the base of the mobilehome.

5. The mobilehome does not include any structural attachments.

6. The mobilehome or trailer shall be occupied by the property owner and connected to a temporary power pole with owner authorization to the City to terminate utilities upon expiration of permit period.

7. The mobilehome or trailer shall be permitted for an initial period of two years and shall be renewable for six month increments at the discretion of the Planning Manager.

N. Accessory Structures. Accessory structures identified as being permitted within any zone may be established only if they are clearly accessory to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use.

1. Second Residential Units

   a. Second residential unit includes a guest house or a second unit, as defined in Section 2.1 of the Malibu LIP.

b. A maximum of one second residential unit may be permitted as an accessory to a permitted or existing single-family dwelling. Development of a second residential unit shall require that a single-family dwelling unit be developed on the lot prior to or concurrent with the second residential unit.

c. Development Standards

i. Siting

Any permitted second residential unit shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

ii. Maximum Living Area

The maximum living area of a second residential unit shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage space. The maximum living area shall not include the area of a garage included as part of the second residential unit.

iii. Parking

a) A minimum of one on-site parking space shall be provided for the exclusive use of a second residential unit.

b) One garage not to exceed 400 square feet in size may be permitted as part of a second residential unit.

2. Other Accessory Structures

a. Accessory structures customarily ancillary to single family dwellings including, but not limited to, a stable, workshop, gym, studio, pool cabana, office, sport court, pool, or spa may be permitted as an accessory to a permitted or existing single-family dwelling.

b. Any permitted accessory structure shall be located within the approved development area for the project site and shall be clustered with the single-family dwelling unit and any other approved structures to minimize required fuel modification.

3. Agricultural Employee Housing Standards.

a. The purpose of this section is to establish standards to ensure that the development of agricultural employee housing does not adversely impact adjacent parcels or the surrounding

neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses, and the character of the City of Malibu.

b. The provisions of this section shall apply to Commercial Recreational (CR) and Rural Residential (RR) zones where agricultural uses are allowed. Agricultural employee housing is allowed as an accessory use in conjunction with a commercial agricultural use.

c. Agricultural employee housing shall be occupied only by farm employees (and their families) engaged in agricultural labor on the same parcel as the commercial agriculture use and shall not be otherwise occupied or rented.

d. No more than 36 beds in a group quarters or up to 12 units are allowed on an individual parcel.

e. At least one parking space per unit or one space per three beds, whichever is more, shall be provided.

f. Agricultural employee housing shall meet the applicable policies and provisions of the LCP, including the setback, lot coverage, height, and other development standards applicable to the zone in which it is located. Additionally, agricultural housing shall be located not less than 75 feet from barns, pens, or other structures that house livestock or poultry, and not less than 50 feet from any other agricultural and non-agricultural use.

g. Agricultural employee housing shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA, and shall be located as close to existing roads as feasible. Additionally, agricultural housing shall be clustered with existing development to the maximum extent feasible and minimize grading, landform alteration, and the need for construction of new roads.

h. The property owner shall obtain all permits and/or approvals from the City of Malibu, as applicable, and the State Department of Housing and Community Development (HCD) pursuant to Title 25 of the California Code of Regulations. Agricultural housing shall also require a coastal development permit pursuant to the provisions of Chapter 13 of this LCP.

i. Prior to submittal of the permit application for agricultural employee housing, the property owner shall provide appropriate evidence to the satisfaction of the Planning Director of an active commercial agricultural operation. An equestrian related use is not considered evidence of commercial agriculture for agricultural employee housing.

j. Agricultural employee housing shall be removed from the property or converted to another permitted use that is approved through a CDP within 90 days of termination of the property's use from agricultural production.

k. Within 30 days after approval from the City of Malibu for agricultural employee housing, the applicant shall record in the office of the County Registrar-Recorder/County Clerk a covenant running with the land for the benefit of the City of Malibu, declaring that the agricultural employee housing will continuously be maintained as such in accordance with the LCP and that:

   i. The applicant will obtain and maintain, for as long as the agricultural employee housing is operated, the appropriate permit(s) from State Department of Housing and Community Development (HCD) pursuant to the Employee Housing Act and the regulations promulgated thereunder;
   ii. The improvements required by the City of Malibu related to agricultural employee housing shall be constructed and/or installed, and continuously maintained by the applicant; and
   iii. The applicant will submit the annual verification form as required by LIP 3.6(N)(3)(m) to the Planning Director.

l. Agricultural housing for five or more employees is subject to the permitting requirements of the California Housing Employee Act. The property owner shall obtain and maintain a permit(s) with the State Department of Housing and Community Development (HCD), pursuant to the Employee Housing Act and the California Code of Regulations, Title 25, Division 1, Chapter 1, Sections 600 through 940, prior to occupancy of the housing units. A copy of the HCD permit shall be provided to the Planning Director within fourteen (14) days of issuance or at the time of building permit application submittal, whichever is earlier.

m. On an annual basis, the property owner must file a verification form with the Director of the Planning Department stating that the commercial agricultural operation is still taking place on the property and that the tenants are employed as farm employees and thereby renew the agricultural certificate for the farm employee housing. Failure to file the verification form will be interpreted as indicating the commercial agriculture has ceased operation and may be the basis for building permit revocation.

   The verification form shall be submitted annually by May 15th of each year to the Planning Director, or designee, in a form acceptable to the Planning Director, that all the dwelling units or sleeping quarters are being rented to and occupied by persons who meet the definition of an agricultural employee established in LIP 2.1 ("Agricultural employee").

O. Home Occupations.

1. Purpose. The purpose of the following regulations is to allow reasonable non-residential uses of residential structures, so long as the non-residential use is ancillary to the residential use, conducted by a resident of the structure, and does not cause an impact which is substantially different from the impact of a residential use.

2. Uses Permitted Without a Permit. The following uses are allowed, provided they operate in compliance with the City's ordinances and the requirements of home occupations.

    a. Educational uses. A use involving the teaching of students, including, but not limited to music lessons, academic tutoring, religious instruction, swimming lessons, equestrian riding lessons provided that there be no more than six (6) non-resident persons whether students or employees, present at any one time.

    b. Home-Based Office or Home-Based Studio. An office used for business, consultation, computer/internet related use or a recording studio, artist studio, or other reasonably similar use determined by the Planning Manager, provided that there be no more than six (6) non-resident persons whether employees or clients, present at any one time.

3. Uses That Require a Permit. The Planning Manager (Manager) may allow any reasonable use as determined by the Manager pursuant to a home occupation permit. The home occupation must operate in compliance with City Ordinances and the general requirements set forth below.

    a. The applicant shall submit a complete written description of the proposed home occupation including but not be limited to, anticipated hours of operation, anticipated storage of materials and supplies, amount of pedestrian and/or vehicular traffic generated by the home occupation, and a graphic representation of the location of the proposed home occupation within structures on the property.

    b. An application for home occupation permit shall be completed on forms provided by the City and include such plans as are reasonably required by the Manager for a complete understanding of the application. The application shall be accompanied by a filing fee in an amount set by resolution of the City Council.

    c. When the Manager determines that the application is complete, the Manager shall give written notice of the application to all owners and residents of all properties within 500 feet of the proposed home occupation, but in no event shall less than ten (10) nearest developed properties be notified. Where there are less than 10 properties within 500 feet of the proposed home occupation, the Manager shall give written notice to the owners and residents of the 10 properties nearest the proposed home occupation. The written notice shall include a brief description of the proposed home occupation, the address of the proposed occupation, the date, time and location of any public meeting or hearing about the application. No sooner than 10 calendar days after the owners and residents are notified and no later than 30 calendar days after receipt of the complete application, the Manager will conduct a meeting to consider the application and all written and oral comments.

d. The Planning Manager shall grant, deny, or conditionally grant the home occupation permit and issue a written decision.

e. The Manager shall impose conditions where required to assure that the home occupation does not cause an impact that is substantially different from the impact of a solely residential use.

f. A home occupation permit shall be effective ten (10) calendar days after its issuance, unless a written appeal to the Planning Commission is filed with the Manager within the ten (10) calendar days after the Manager approved or denied the application. Any aggrieved person may appeal the Manager's decision. The Manager shall notice a hearing on the appeal in the same manner as the initial hearing regarding the home occupation application. The decision of the Planning Commission shall be final.

4. All home occupations shall comply with the requirements listed below:

a. No flammable, hazardous or toxic materials other than those materials normally found in a dwelling and only in the quantities normally found in a dwelling, shall be stored onsite.

b. The hours of operation for a home occupation shall begin no earlier than 8:00 a.m. and end no later than 9:00 p.m. daily. Any activity relating to the home occupation held outdoors will be required to cease at sunset.

c. With the exception of newspaper, magazine or other similar advertising, the home occupation shall not be apparent. The posting of flyers, or signs to advertise a home occupation, is prohibited except as permitted in Section 3.15 of the Malibu LIP.

d. No home occupation shall create objectionable noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, radiation, or other hazard or nuisance in excess of what is normally found in the neighborhood in which the home occupation is located.

e. All noise shall comply with the Article IV, Public Peace, Chapter 2, Noise of the Malibu Municipal Code.

f. A home occupation shall comply with Section 3.15 of the Malibu LIP.

g. Except for those uses identified as requiring or not requiring permits, above, no one other than residents of the dwelling shall be onsite employees of the home occupation or report to work at the site in the conduct of a home occupation.

h. No vehicle, with signage identifying the existence of the home occupation shall be parked on the property or in the right of way such as to advertise the existence of the home occupation.

i. Required enclosed parking shall be maintained in compliance with Section 3.14 of the Malibu LIP.

j. Materials and goods shall not be stored and no permanent work area, work bench, or structures shall be built within the required enclosed parking area in such a manner as to prevent the use of the area for vehicle parking. In addition, no supplies or equipment or equipment used for, or in any way related to, the home occupation may be stored outside the dwelling unit except for those items necessary for outdoor instruction permitted for uses not requiring a permit.

k. Pedestrian and/or vehicular traffic shall not be in excess of the normal amount in the zone in which the home occupation is located.

l. With the exception of newspaper deliveries, delivery or pick-up of materials, goods, or products to and from the home occupation shall only occur from 8:00 a.m. to 5:00 p.m., Monday through Friday. The delivery vehicles used in conjunction with the delivery of materials, goods, or products to and from the location of a home occupation shall be limited to a single unit truck with a maximum of twenty-eight (28) foot length and a maximum gross vehicle weight of twenty-four thousand (24,000) pounds.

m. Motor vehicle repair businesses, and day care facilities are prohibited.

n. The home occupation shall not occupy more than twenty (20) percent of the total floor area of all structures on the property, or two thousand (2,000) square feet, whichever is less. Any construction, structural alterations or addition(s) to any structure on the property in which the home occupation may be conducted, shall conform with requirements for residential structures within the Zoning Ordinance.

P. Determinations regarding lot widths and depths for irregularly shaped parcels, permitted driveway paths, building area and total development square footage, infill lots and yards shall be made by the Manager.

Q. Residential buildings located within floodplains, liquefaction or earthquake fault zones shall comply with any other site specific hydrologic, geologic and seismic conditions based on the required hydrology soils and geotechnical reports and final recommendations from the City Geologist or City Engineer.

R. Distance Between Buildings.

1. Where more than one building is placed on a lot or parcel of land, the following minimum distances shall apply.

a. Distance Between Main Buildings. A minimum distance of ten (10) feet shall be required between all main residential buildings established on the same lot or parcel of land.

b. Projections Permitted Between Buildings, Including Detached Shade Structures, on the Same Lot or Parcel of Land. The following projections are permitted within six feet of the required ten (10) feet between buildings, including detached shade structures, provided they are developed subject to the same standards as and not closer to a line midway between such buildings than is permitted in relation to a side lot line within a required interior side yard:

i. Eaves and cantilevered roofs;

ii. Fireplace structures, buttresses and wing walls;

iii. Rain conductors and spouts, water tables, sills, capitals, cornices, and belt courses;

iv. Awnings and canopies;

v. Water heaters, water softeners, gas or electric meters, including service conductors and pipes;

vi. Stairways and balconies above the level of the first floor.

c. Distance Between Accessory and Main Buildings. A minimum distance of six feet shall be required between any main residential building and an accessory building established on the same lot or parcel of land.

2. Uncovered porches, platforms, landings and decks, including access stairs thereto, which do not extend above the first floor are permitted within the required distance between buildings without distance restriction. (Ord. 461 § 6, 2020; Ord. 445 § 4, 2019; Ord. 303 § 3, 2007)

3.7 AFFORDABLE HOUSING

3.7.1 Residential Density Bonus

A. Purpose and Intent. The purpose of this section is to implement the incentive program provided in the State density bonus regulations (Government Code Sections 65915 through 65918) in order to provide additional opportunities for the provision of affordable housing within the City of Malibu in compliance with the policies of the Local Coastal Program. The intent of the following regulations is to ensure that the provisions of Government Code Sections 65915 through 65918 are implemented in a manner that is consistent with the policies of Chapter 3 of the Coastal Act and is most protective of coastal resources.

B. Eligibility. A density bonus may be granted to an eligible housing development in any residential district through approval by the city council (after recommendation from the planning commission) of a CDP. In order to qualify for a density bonus or other financial incentives of equivalent value as specified in Government Code Section 65915 the developer of a housing development project shall agree to construct one of the following:

1. At least ten (10) percent of the total units of a housing development for persons and families of lower income;

2. At least five (5) percent of the total units of a housing development for very low income households;

3. A senior citizen housing development; or

4. At least ten (10) percent of the units in a common interest subdivision for persons and families of moderate income.

Only one density bonus up to a maximum of thirty-five (35) percent shall be granted to each project regardless of the number of preceding qualifying commitments made by the developer.

C. General Provisions for Density Bonuses and Incentives/Concessions. In accordance with Government Code Section 65915, the City shall consider a density bonus and provide incentives or concessions for a housing development subject to the following provisions:

1. Determination of unit count. When determining the percentage of housing units which are to be affordable, the density bonus units shall not be included.

2. Minimum project size. A project must contain at least five dwelling units in order to be considered for a density bonus.

3. Previous density bonuses. The density bonus provision shall not apply to any parcel or project area which has previously been granted increased density through a general plan amendment, zone change or other permit to facilitate affordable housing.

4. Dispersal of affordable units. “Affordable” or “density bonus” units shall be generally dispersed throughout a development project and shall not differ in appearance from other units in the development.

5. Regulatory incentives. In accordance with Government Code Section 65915, in addition to a density bonus the City shall grant at least one of the following regulatory concessions and/or incentives to ensure that the residential project will be developed at a reduced cost:

a. A reduction in the site development standards or a modification of zoning code requirements including, but not limited to, reduced minimum lot size or dimensions; or reduced minimum setbacks.

b. Approval of mixed-use development in conjunction with a multi-family residential project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if the project will be compatible internally as well as with the existing or planned development in the area where the proposed project will be located.

c. Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions.

D. Procedures for Approval.

1. Notification to developer. The City shall, within ninety (90) days of receipt of a written proposal to utilize a density bonus for affordable housing, notify the developer in writing of the procedures governing these provisions.

2. Findings. When required by Government Code Section 65915, the City shall grant a density bonus that allows the applicant to build no more than thirty-five (35) percent more units than a property's zoning would ordinarily allow, if the City finds:

a. The number of units is compatible with the existing and planned infrastructure and service facilities serving the site;

b. The developer has demonstrated that the density bonus and adjustment of standards is necessary to make the project economically feasible;

c. The proposed increased density is consistent with Section 30604(f) of the California Coastal Act, Government Code Section 65915 and Section 3.7.1 of the Local Coastal Program;

d. If located within the coastal zone, the project is found to be in conformity with the coastal resource protection standards in the Local Coastal Program (including but not limited to sensitive habitat, agriculture, public viewshed, public services, public recreational access and open space protections), with the exception of the density provisions; and

e. The proposed project is compatible with the goals and coastal resource protection policies of the LCP and purpose and intent of this section.

3. In accordance with Government Code Section 65915(f), the density bonus shall be calculated based on the otherwise maximum allowable residential density under the LCP. The "otherwise maximum allowable residential density" shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the LCP.

4. Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified local coastal program coastal resource protection policies and

development standards, with the exception of the density provisions. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, before approving a density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall require implementation of the means that avoid impacts to coastal resources, as required by relevant LCP policies, while still providing the density increase permitted by law.

5. For the purposes of this section, "coastal resources" means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, California Public Resources Code Section 30200 et seq., including, but not limited to, public access, marine and other aquatic resources, environmentally sensitive habitat, and the visual quality of coastal areas.

6. For any housing development where the City approves a density bonus, prior to issuing the coastal development permit, the owner must record an affordable housing agreement pursuant to Section 3.7.2 of the Malibu LIP.

E. Required Terms for Continued Availability of Affordable Units.

1. Low and Very-Low Income Households. An applicant providing low and very-low income units in accordance with this chapter must continue to restrict those units to low or very-low income households for a minimum of fifty-five (55) years or longer term under another regulator agreement from the date of initial occupancy.

2. Moderate Income Households. In the case of a housing development providing moderate income units, the initial occupant of the unit must be a moderate income household and the sale price must be affordable to moderate income households and household and the sale price must be affordable to moderate income households.

   a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy and its proportionate share of appreciation; which shall be used within five years for any of the purposes described in subsection (e) of Section 33334.2 of the California Health and Safety Code that promote home ownership. Any recaptured funds shall be deposited into a housing trust account to be used in accordance with subsection (e) of Section 33334.2 of the California Health and Safety Code. (Ord. 449 § 4, 2019)

3.7.2 Affordable Housing Agreement

An applicant that chooses any option for satisfying the affordability requirements of this chapter shall enter into an affordable housing agreement ("agreement") with the City. The agreement shall be executed in a recordable form prior to the issuance of a CDP and building permit for any portion of a project including affordable units, subject to the requirements of this chapter.

A. The agreement shall:

1. Provide a description of the project, how the affordable housing requirements will be met by the applicant, and whether the affordable units will be rented or owner-occupied;

2. Identify the type, size and location of each affordable housing unit required hereunder;

3. Identify the incentive(s) and/or concession(s) provided by the City (if any) for a density bonus;

4. Identify limits on income, rent, and sales price of affordable units;

5. Identify the term of the agreement, which would define the term of affordability of the required units;

6. Require that the affordable housing units be constructed and completed by the applicant as specified in this chapter and in accordance with state law;

7. Require that each affordable housing unit be kept available only to members of the identified income group at the maximum affordable rent during the term of the agreement;

8. Describe procedures for tenant selection and the process for qualifying prospective households for income eligibility;

9. Identify provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal for owner-occupied units, or restrictions for rental units;

10. Include performance guarantees (e.g., a cash deposit, bond, or letter of credit) as required by the City;

11. Include provisions for the enforcement and penalties for violation of the agreement; and

12. Identify the means by which such continued availability shall be secured and enforced and the procedures under which the affordable housing units shall be leased and shall contain such other terms and provisions, the City may require.

B. The agreement, in its form and manner of execution, shall be in a form approved by the City Attorney and able to be recorded with the Los Angeles County Recorder. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents shall also be recorded against owner-occupied affordable units.

C. The affordability of the required units shall be monitored for compliance by Planning Department staff. The Planning Director is hereby expressly authorized to act as the City's agent to enter into the agreement for the purpose of enforcing the terms of the agreement consistent with this chapter. The agree-

ment shall include a provision for reimbursement of the City's costs of monitoring. (Ord. 449 § 4, 2019)

3.7.3 Affordable Housing Fund

A. Fund Revenues. The fund shall receive all in-lieu fees paid under Section 3.7.1(E)(2) and may also receive moneys from other sources.

B. Purpose and Limitations. Affordable housing fund moneys shall be used in compliance with the general plan housing element and this chapter to construct, rehabilitate, or subsidize affordable housing or assist other governmental entities, private organizations or individuals to provide or preserve affordable housing. The fund may be used for the benefit of both rental and owner-occupied housing. Allowed uses of fund moneys include:

1. Assistance to housing development corporations;

2. Equity participation loans;

3. Grants;

4. Pre-home ownership co-investment;

5. Predevelopment loan funds;

6. Participation leases;

7. Other public-private partnership arrangements;

8. The acquisition of property and property rights;

9. Construction of affordable housing including costs associated with planning, administration, and design, as well as actual building or installation;

10. Costs of rehabilitation and maintenance of existing affordable housing when needed to preserve units that are at risk of going to a market rate or at risk of deterioration;

11. Other costs associated with the construction or financing of affordable housing;

12. Reasonable administrative charges or related expenses; and

13. Reasonable consultant and legal expenses related to the establishment and/or administration of the fund. (Ord. 449 § 4, 2019)

3.8. COMMERCIAL DEVELOPMENT STANDARDS

A. All commercial development shall be subject to the following development standards:

1. Height.

   a. Non-Beachfront lots. Every building or structure, including satellite dish antenna, shall not be higher than 18 feet above natural or finished grade, whichever results in a lower building height, except for chimneys and rooftop antenna other than satellite dish antenna.

   b. Notwithstanding any provision of this section, the Planning Commission, pursuant to Section 13.27 of the Malibu LIP , may allow heights up to 24 feet for flat roofs and 28 feet for pitched or sloped roofs. In no event shall the maximum number of stories above grade be greater than two.

   c. Beachfront lots. No building or structure, including satellite dish antenna, shall exceed 24 feet for flat roof and 28 feet for pitched roof, as measured from the lowest recommended finish floor elevation on the ocean side, as defined by a licensed Civil Engineer, based upon a Comprehensive Wave Action Report, and 24 feet for a flat roof and 28 feet for pitched roof as measured from center line of the road on the land side. Building height shall be apportioned such that the portion of the building which height is measured from the center line of the road shall not exceed half of the total length (front to rear) of the structure.

   d. For an addition to an existing structure, the height shall be measured from the bottom of the first floor diaphragm on the ocean side, or the lowest recommended finish floor elevation, whichever is lower, and the center line of the road on the land side.

2. Non-Beachfront Yards/Setbacks. The following yard/setback requirements apply to all lots, except beachfront lots:

   a. Front yard setbacks shall be at least 20% of the total depth of the lot.

   b. Side yard setbacks shall be cumulatively at least 25% of the total width of the lot but, in no event, shall a single side yard setback be less than 10% of the width of the lot or 5 feet, whichever is greater.

   c. Rear yard setbacks shall be at least 15 feet whichever is greater.

   d. For the purpose of calculating yards, slopes equal to or greater than 1:1 shall not be included in the lot dimensions.

3. Setbacks from Parklands. New development adjacent to parklands, where the purpose of the park is to protect the natural environment and ESHA, shall be sited and designed to minimize impacts to habitat and recreational opportunities, to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.

    a. New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required park buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.

    b. Variances or modifications to park buffer standards shall not be granted except where there is no other feasible alternative for siting the primary structure. In such cases, one primary structure shall be the only permitted development on the site, and the structure shall be restricted in size and designed to maximize the buffer standard to the maximum extent feasible.

    c. Permitted development located within or adjacent to parklands that adversely impact those areas may include open space or conservation restrictions or easements over parkland buffer in order to protect resources.

4. Beachfront Yards/Setbacks. Notwithstanding the above requirements, the following yard requirements apply to beachfront lots:

    a. Front. 20 feet maximum or the average of the two immediate commercial neighbors neighboring commercial properties, whichever is less.

    b. Side. 10% of lot width on each side, with a 3 feet minimum and 5 feet maximum.

    c. Rear. Determined by the stringline rule as described in Section 3.6 (G)(3) of the Malibu LIP.

    d. Bluffs. Shall be consistent with the requirements of Chapter 10 of the Malibu LIP.

5. Site Development Criteria. All proposed commercial construction shall comply with the following site development standards:

    a. The gross square footage of all buildings on a given parcel shall be limited to a maximum Floor Area Ratio (F.A.R.) of 0.15, or 15% of the lot area (excluding any street rights of way). Additional gross square footage may be approved, up to the maximum allowed for the parcel under the Land Use Plan provided the increase complies with the provisions of Section e and/or f below, where applicable. Additional square footage for commercial development located in the Civic Center area may be approved, up to the maximum allowed for the parcel under the Land

Use Plan, only if it is included as part of a specific plan, planned development or other comprehensive plan approved as a Local Coastal Program amendment certified by the California Coastal Commission in compliance with the provisions of Section e below.

b. 40% of the lot area shall be devoted to landscaping. An additional 25% of the lot area shall be devoted to open space. Open space areas may include courtyards, patios, natural open space and additional landscaping. Parking lots, buildings, exterior hallways and stairways shall not qualify as open space.

c. Commercial buildings located within floodplains, liquefaction or earthquake fault zones shall comply with any other site specific hydrologic, geologic and seismic conditions based on the required hydrology soils and geotechnical reports and final recommendations from the City Geologist or City Engineer.

d. The applicant shall provide appropriate graphic information and calculations on the site plan to satisfy compliance with this subsection.

e. Civic Center Development Criteria. Lands within the Civic Center Overlay Area for which a Civic Center Specific Plan, planned development, development agreement, or other comprehensive plan has been approved pursuant to the requirements of the Land Use Plan shall be developed in accordance with said plan or agreement. Any specific plan, planned development, development agreement, or other comprehensive plan shall not be effective until adopted by the City and certified by the Coastal Commission as an amendment to the LCP. This section does not apply to improvements to existing development in the Civic Center or development already approved by the Coastal Commission and the City.

(1) No development shall be approved on any parcel located within the Civic Center Overlay Area (LIP Zoning Map 5), other than improvements to existing uses, for a period of two (2) years commencing September 15, 2002, or until a Specific Plan, or other comprehensive plan encompassing all parcels located within the Civic Center Overlay Area is adopted by the City and certified by the Coastal Commission as an LCP amendment.

(2) The provisions in (1) above shall not apply to coastal development permits for uses that are visitor-serving or part of a development agreement approved under a LCP amendment certified by the Coastal Commission. Any coastal development permit approved shall include a wetland delineation for the project site(s).

(3) If a specific plan or other comprehensive plan is adopted by the City and certified by the Coastal Commission, commercial development shall be allowed in the Civic Center Overlay area up to the maximum Floor Area Ratio (FAR) allowed for the specific commercial use designation under the Land Use Plan.

(4) Other than as provided in (1) and (2) above, subsequent to September 15, 2004, if no specific plan, development agreement, or other comprehensive plan has been approved by the Coastal Commission as an LCP amendment, commercial uses shall be allowed on individual parcels located in the Civic Center Overlay area as designated by the Land Use Plan Map, consistent with all policies of the LCP. A maximum FAR of 0.15 is permitted, except that the FAR may be increased to no greater than a maximum of 0.20 if public benefits and amenities, including public open space and, where applicable, habitat restoration or enhancement, are provided and the project site is included as part of a planned development or development agreement for multiple parcels, approved under a LCP amendment by the Coastal Commission. Any LCP amendment to provide for a planned development or development agreement shall be subject to a wetland delineation determination in accordance with policy 4.4.3(B) of the Malibu LIP prior to approval.

(5) Subsequent to September 15, 2004, if no specific plan or other comprehensive plan has been approved by the Coastal Commission as an LCP amendment, applications for new commercial development, other than improvements to existing uses, on individual parcels located in the Civic Center Overlay area shall be subject to a wetland delineation determination in accordance with policy 4.4.3(B) of the Malibu LIP prior to approval of any new development on the site.

f. Additional Square Footage. The City Council shall have the authority to approve additional square footage for commercial development, except within the Civic Center area, as provided in Section 3.8 (A)(5) of the Malibu LIP, where the applicant has offered to the City public benefits and amenities in connection with a project subject to a Development Agreement processed pursuant to Section 13.28 of the Malibu LIP. In considering a request for additional square footage, the City Council shall apply one of the following Guidelines:

The Increase in Land Value Model - The economic value of the public benefits and amenities offered by the applicant should be at least 50% of the Increase in Land Value attributable to the additional square footage, determined as follows: The lot area needed to build the proposed square footage is determined, using 15% F.A.R. ("needed lot area"). The actual area of the applicant's property is subtracted from the needed lot area (the result is the "imputed additional lot area"). The fair market value of the applicant's property is determined, without considering the additional square footage, and converted to a per square foot figure. The land value is multiplied by the imputed additional lot area. The result is the Increase in Land Value.

The Avoided Cost of Development Model - The economic value of the public benefits and amenities offered by the applicant should be at least 50% of the Avoided Site Improvement Costs, determined as follows: The lot area needed to build the proposed square footage is determined, using 15% F.A.R. ("needed lot area"). The actual area of the applicant's property is subtracted from the needed lot area (the result is the "imputed additional lot area"). The cost to prepare the imputed additional lot area is

calculated, including such items as grading, drainage, ingress/egress/circulation, parking, landscaping, on site utilities, design and construction management costs (but not the costs of the buildings). This sum is the applicant's Avoided Site Improvement Costs.

The Increase in Total Project Value Model - The economic value of the public benefits and amenities offered by the applicant, calculated over the life of those benefits and amenities, should be at least 50% of the Increase in Total Project Value, determined as follows: The City will engage a consultant to calculate the increase in Total Project Value over the life of the project attributable to the additional square footage, which calculation shall consider the following factors:

Annual Rent is per square foot (this would vary based on the type of project).

Average occupancy over the life of the project. Cost to Build/Sq. Ft. This is the cost for the building only (this would vary based on the type of project).

Total Cost is cost per square foot (x) total square footage.

Annual Debt Payment @ current rate % for 30 years (this assumes 100% bank financing).

Taxes (assumes a property tax rate, including bonds and assessments).

Insurance (assumes an all risk policy in the Malibu area based on the size of the building).

Utilities and maintenance (assume a cost per square foot per year respectively).

Depreciation (assumes a 35 year schedule for the Total Cost of the building).

Income Taxes, based on the current state and federal corporate rates (the federal rate is progressive and could change depending on the amount of net income before taxes, the state rate is proportional, not progressive).

Net Income After Taxes is the net profit to the landowner.

Total Net Profit after taxes over economic life is the net profit times 35 years.

B. Determinations regarding lot widths and depths for irregularly shaped parcels, permitted driveway paths, building area and total development square footage, infill lots and yards shall be made by the Manager. (Ord. 303 § 3, 2007)

3.9. INSTITUTIONAL DEVELOPMENT STANDARDS

A. All institutional development shall be subject to the following development standards:

1. Height.

   a. Structures shall not exceed a maximum height of 18 feet above natural or finished grade, whichever results in a lower building height, except for chimneys, rooftop antenna, and light standards. The maximum height of the structure may be increased up to 28 feet for a flat or pitched roof if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP.

   b. Flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries may be increased up to a maximum of 35 feet if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP. Roof-mounted mechanical equipment shall be integrated into the roof design, screened, and may project no more than two feet higher than the structure roof height (screens included) if approved through a site plan review pursuant to Section 13.27 of the Malibu LIP.

   c. In no event shall the maximum number of stories above grade be greater than two.

   d. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5.G.

2. Yards/Setbacks.

   a. Front yard setbacks shall be 10 feet from the street easement.

   b. Side yard setbacks shall be 5 feet; however, when an institutional use is adjacent to a residentially-zoned parcel(s) along a side yard, the setback shall be increased to 10% of the lot width or 10 feet, whichever is greater.

   c. Rear yard setbacks shall be 5 feet; however, when an institutional use is adjacent to a residentially-zoned parcel(s) along the rear yard, the setback shall be increased to 15% of the lot depth or 15 feet, whichever is greater.

3. Site Development Criteria. All proposed institutional construction shall comply with the following site development standards:

a. Structure Size. The gross floor area of all buildings on a given parcel shall be limited to a maximum Floor Area Ratio (FAR) of 0.15, or 15% of the lot area (excluding slopes equal to or greater than 1:1 and street easements). Additional gross floor area may be approved by the City Council, up to the maximum allowed for the parcel under the Land Use Plan, where additional significant public benefits and amenities are provided as part of the project.

b. Landscaping and Site Permeability. 25% of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to landscaping. The required 5 foot landscape buffer around the perimeter of parking areas pursuant to Section 3.14.5(E)(1) of the Malibu LIP shall count toward the 25% requirement. An additional 5% of the lot area (excluding slopes equal to or greater than 1:1 and street easements) shall be devoted to permeable surfaces.

B. Determinations regarding lot widths and depths for irregularly shaped parcels, permitted driveway paths, building area and FAR, infill lots and yards shall be made by the Planning Manager, consistent with all applicable certified Local Coastal Program policies and development standards. (Ord. 373 § 3, 2013)

3.10. RESERVED

3.11. DEVELOPMENT STANDARDS FOR SPECIAL USES

3.11.1 Service Station Requirements

The following standards shall apply to any service station development proposal in addition to all other commercial development standards set forth in this Chapter.

A. Location. All service station sites shall front on streets designated as through streets, unless the sites are part of commercial developments such as shopping centers.

B. Site Size. The site of the service station shall be of sufficient size and configuration to satisfy all requirements for off-street parking, setbacks, curb cuts, walls, landscaping and storage as provided in the Malibu LIP.

C. Setbacks. All buildings shall be set back from interior property lines a minimum of eighteen feet and exterior property lines a minimum of twenty feet except that pump islands may be located a minimum of twenty feet from all exterior property lines, and pump island canopies may project to within fifteen feet of exterior property lines.

D. Access. Driveways shall be so designed and located as to ensure a safe and efficient movement of traffic on and off the site to and from the lane of traffic nearest the curb.

E. Noise. Buzzers and amplified signaling bells are to be located within the service station proper and shall not generate noise beyond that of a normal residential telephone ring when the service station site abuts residential property or property used for residential purposes.

F. Lighting. All lighting fixtures shall be located so as to shield direct rays from adjoining properties. Luminaries shall be of a low level, indirect diffused type and shall not exceed the height of the building.

G. Wall or Hedge. A five-foot masonry wall or hedge shall be required along all interior property lines.

H. Drainage. All service stations shall comply with the requirements of Chapter 17 of the Malibu LIP (Water Quality Protection). (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.11.2 Drive-Up Windows

The following provisions shall apply to drive-up windows and remote tellers located on the same parcel as the principal use permitted in the Commercial Districts.

A. Design Requirements. The following shall be the minimum requirements for all drive-up windows and remote tellers.

1. Drive-up windows and remote tellers shall provide at least 180 feet of reservoir space for each facility, as measured from the service windows or unit to the entry point into the drive-up lane;

2. Entrances to drive-up lanes shall be at least 25 feet from driveways entering a public street;

3. Drive-up windows or remote tellers shall not be considered as justification for reducing the number of parking spaces which are otherwise required;

4. Any permit authorizing such facility is revocable if congestion attributable to the facility regularly occurs on public streets or within the parking lot, and the management cannot alleviate such situation.

B. Findings. Such facilities shall not be approved unless the City finds that:

1. The design and location of the facility and lane will not contribute to increased congestion on public or private streets adjacent to the subject property.

2. The design and location of the facility and lane will not impede access to or exit from the parking lot serving the facility, nor impair normal circulation within the parking lot. (Ord. 373 § 3, 2013)

3.11.3 Helipad Standards

A. Helipads sites shall be located on the same site as the main residence.

B. The minimum net site area shall be 10 acres.

C. No other private use helipad shall be located within 5 miles.

D. Fire suppression equipment (i.e. water tank, foam, pumps) shall be maintained on the site, continuously, to the satisfaction of the Fire Department.

E. Emergency response agencies shall be allowed to use the helipad facility in times of emergency. (Ord. 373 § 3, 2013)

3.11.4 Small Community Stage Theater Standards

A. The minimum net site area for a small community stage theater shall be five (5) acres.

B. No more than one hundred (100) seats shall be provided.

C. All performances shall be held within the interior of a building and no outdoor performances shall be permitted. (Ord. 373 § 3, 2013)

3.11.5 Emergency Shelter Requirements

A. Purpose. The purpose of this section is to provide development standards for emergency shelters in the City of Malibu.

B. Applicability. The provisions of this section are applicable in the Commercial General (CG) and Institutional (I) zoning districts.

C. Regulations. An emergency shelter is allowed subject to a coastal development permit, unless determined to be exempt pursuant to Section 13.4, consistent with the LCP and subject to the following standards in each case:

1. Location. Emergency shelters shall be permitted only where adequate water supply and sewage disposal capabilities are available onsite as determined by the City Department of Environmental Sustainability, and shelters shall be located no further than 2,000 feet from a public transit stop.

2. Size Limit. The maximum number of individuals permitted to be served (eating, showering or sleeping) nightly shall not exceed the total number of beds provided within the shelter or one person per one hundred twenty-five (125) square feet of floor area, whichever is less. In no case shall occupancy exceed twenty-five (25) individuals at any one time. Total square footage of a new fa-

cility shall comply with the maximum square footage limit set forth for the underlying zoning district.

3. Facility Requirements.

a. Each occupant shall be provided a minimum of fifty (50) square feet of personal living space, not including space for common areas.

b. Bathing facilities shall be provided in quantity and location as required by the California Plumbing Code (Title 24 Part 5), and shall comply with the accessibility requirements of the California Building Code (Title 24 Part 2).

c. Shelters must provide a storage area for refuse and recyclables that is enclosed by a six-foot high landscape screen, solid wall, or fence, which is accessible to collection vehicles on one side. The storage area must be large enough to accommodate the number of bins that are required to provide the facility with sufficient service so as to avoid the overflow of material outside of the bins provided.

d. The shelter may provide one or more of the following specific facilities and services onsite, including but not limited to:

    i. Commercial kitchen facilities designed and operated in compliance with the California Retail Food Code;

    ii. Dining area;

    iii. Laundry room;

    iv. Recreation room;

    v. Support services (e.g. training, counseling, etc.); and

    vi. Child care facilities.

4. Management. A shelter shall have an onsite management office, with at least one employee present at all times during which the shelter is in operation and is occupied by at least one resident.

5. Proximity to Other Shelters. No emergency shelter shall be located within three hundred (300) feet of another emergency shelter. The three hundred (300) foot separation shall be measured from the nearest points of the property lines on which the shelters are located.

6. Length of Stay. Individual occupancy in an emergency shelter is limited to six months in any twelve (12) month period (Section 50801 of the Health and Safety Code).

7. Onsite Waiting and Intake Areas. A minimum of five percent of the total square footage of a shelter shall be designated for indoor onsite waiting and intake areas. In addition, an exterior waiting area shall be provided, the minimum size of which is equal to or larger than the minimum interior waiting and intake area.

    a. Staging for drop-off, intake and pick-up should take place inside a building, at a rear or side entrance, or inner courtyard.

    b. Shelter plans shall show the size and location of any proposed waiting or occupant intake areas, interior and exterior.

8. Off-Street Parking. Parking shall be provided, in accordance with Section 3.14.3 of the Local Coastal Program.

D. Reviewing Authority.

1. Coastal Development Permit applications for emergency shelters shall be reviewed by the appropriate decision making authority in accordance with Section 13.7. (Ord. 449 § 4, 2019)

3.11.6 Single-Room Occupancy Facility Requirements

The following standards shall apply to any single-room occupancy (SRO) facility development proposal in addition to all other commercial development standards set forth in this chapter. The provisions of this Section are applicable in the Commercial General (CG) zoning district.

A. SRO units shall be for the purposes of providing affordable housing and shall not serve the purpose of recreational or travel needs.

B. Size / Occupancy. Minimum size of one hundred fifty (150) square feet and maximum size of four hundred (400) square feet per SRO unit. Occupancy is a maximum of two individuals.

C. Laundry facilities must be provided onsite.

D. Bathroom. An SRO unit is not required to but may contain partial or full bathroom facilities. If a full bathroom is not provided, common bathroom facilities shall be provided in accordance with the California Building Code for congregate residences with at least one full bathroom per floor of the facility.

E. Kitchen. An SRO unit is not required to but may contain partial or full kitchen facilities. If a kitchen is not provided, at least one common full kitchen shall be provided per floor of the facility.

F. Management. The SRO facility must provide twenty-four (24) hour onsite management. The applicant shall provide a copy of the proposed rules governing the SRO facility to the City. The management will be solely responsible for the enforcement of all rules that are reviewed and approved by the reviewing authority.

G. Off-street Parking. Parking shall be provided in accordance with Section 3.14.3 of the Local Implementation Plan.

H. Facilities must provide a storage area for refuse and recyclables that is enclosed by a six-foot high landscape screen, solid wall, or fence, which is accessible to collection vehicles on one side. The storage area must be large enough to accommodate the number of bins that are required to provide the facility with sufficient service so as to avoid the overflow of material outside of the bins provided. (Ord. 449 § 4, 2019)

3.12. LANDSCAPING AND FUEL MODIFICATION

All new development shall minimize the removal of natural vegetation, including native trees and plants in order to minimize erosion and sedimentation, impacts to scenic and visual resources, and impacts to sensitive resources. (Ord. 373 § 3, 2013)

3.12.1 Landscaping

Cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated.

A. Plant Species.

1. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site, except as noted in Section 3.12.1 (A)(3) of the Malibu LIP. The native plant species shall be chosen from those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996.

2. Invasive plant species, as identified by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996 and identified in the City of Malibu's Invasive

Exotic Plant Species of the Santa Monica Mountains, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.

3. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone (Zone A) required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Timing of Landscaping.

1. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.

2. The building pad and all other graded or disturbed areas on the subject site shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence.

C. Landscaping Coverage Standards.

Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for revegetation.

D. Landscaping Monitoring.

Required landscaping that is within ESHA or ESHA buffer shall be monitored in accordance with the provisions of this section.

1. Any landscaping, or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary.

2. Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the approved landscape plan. The monitoring report shall include photographic documentation of plant species and plant coverage.

3. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. If perform-

ance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met.

E. Landscape Plans.

Landscape plans shall be prepared by a licensed landscape architect or qualified resource specialist for all graded or disturbed areas on the project site. The landscape plans shall include a scale map of the project site that shows the location, species, and size of each plant to be included in the site landscaping. The landscape plans shall be designed to meet the standards in Sections 3.12.1 (A) through (D) of the Malibu LIP. (Ord. 373 § 3, 2013)

3.12.2 Fuel Modification and Brush Clearance

A. All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety.

B. Development shall utilize fire resistant materials and incorporate alternative fuel modification measures, such as firewalls (except where this would have impacts on visual resources), and landscaping techniques, where feasible, to minimize the total area modified. (Ord. 373 § 3, 2013)

3.13. AGRICULTURAL USE AND CONFINED ANIMAL FACILITIES

3.13.1 Agricultural Uses

A. The conversion of vacant land in ESHA, ESHA buffer, or on slopes over 3:1 to new crop, orchard, vineyard, or other agricultural use shall be prohibited, except as otherwise provided in Section 4.7 of the Malibu LIP.

B. Crop, orchard, or vineyard uses may be permitted in areas that are not ESHA, ESHA buffer, or on slopes greater than 3:1.

C. Greenhouses shall only occur on a lot or parcel of land having an area of at least one acre.

D. The use of reclaimed water for any approved agricultural use is required where feasible.

E. Any approved agricultural use shall include measures to minimize impacts to water quality, as provided in Chapter 17 of the Malibu LIP. (Ord. 373 § 3, 2013)

3.13.2 Confined Animal Facilities

A. New confined animal facilities for the keeping of horses or other ungulates for personal recreational use shall be prohibited in ESHA, or ESHA buffer except as otherwise provided in Section 4.7 of the Malibu LIP.

B. Accessory structures used for confined animal facilities may be permitted in conjunction with an existing or new single family residence if such use is not located on a slope greater than 4:1and does not result in any expansion to the required fuel modification area into ESHA or ESHA buffer.

C. Equestrian riding and training facilities and activities including boarding of horses and domestic animals, tournaments, shows and contests for low intensity commercial recreational and athletic purposes only occur on appropriate sized parcels for activities proposed.

D. Raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, shall only occur on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre, of which a maximum of four per acre may be horses, of the total ground area be kept or maintained in conjunction with such use.

E. The grazing of cattle, horses, sheep or goats shall only occur on a parcel with an area of not less than five acres. No buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock shall be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing.

F. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature shall only occur on a parcel that is a minimum of one acre in size.

G. Raising of horses, sheep, goats, donkeys, mules and other ungulates for personal use by residents on the premises, are subject to the following conditions:

1. The subject property is a minimum of 15,000-sq. ft. in size.

2. The maximum number of animals listed above does not exceed eight animals (over 6 months of age) for every acre of lot area, of which a maximum of four animals per acre may be horses.

3. The animals shall be maintained in an area a minimum of 50 ft. from any building used for human habitation.

4. The boarding of horses as a commercial use shall be subject to the same standards as for personal use, except that the minimum area required shall be five acres.

H. Any approved confined animal use shall include measures to minimize impacts to water quality, as provided in Chapter 17 of the Malibu LIP. (Ord. 373 § 3, 2013)

3.14. PARKING REGULATIONS

3.14.1 Purpose and Intent

A. This chapter assures the provision of adequate off-street parking facilities in conjunction with any residential, commercial or other use or development. These standards should be considered the minimum required to preserve the public health, safety, and welfare, and more extensive parking provisions may be warranted in particular circumstances.

B. New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation. Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible.

C. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

D. Restrictions on public parking, which would impede or restrict public access to beaches, trails, or parklands (including, but not limited to, the posting of "no parking" signs, red curbing, physical barriers, imposition of maximum parking time periods, and preferential parking programs), shall be prohibited except where such restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety. Where feasible, an equivalent number of public parking spaces shall be provided nearby as mitigation for impacts to coastal access and recreation. (Ord. 373 § 3, 2013)

3.14.2 District Parking Requirements

The number of spaces noted in the zone district development standards shall be the minimum requirement for uses and developments in the respective district. (Ord. 373 § 3, 2013)

3.14.3 Specific Parking Requirements

Parking shall be provided in accordance with the list of uses under this section. Where the standards result in a fraction, the next larger whole number shall be the number of spaces required. For additions to existing developments, the increased parking requirement shall be based only on the addition. A minimum of two spaces shall be provided for any use or development regardless of the size or scope of the use or development. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide. If the specific use is not listed in the following table, the parking requirements listed in each zone district shall apply:

PARKING STANDARDS

Residential Units

Emergency shelters	One parking space per 10 adult beds, plus 1 parking space per employee on the largest shift
Large residential care facility	One space for every two beds and 1 space for every employee In addition, 1 off-street parking space for each outside employee shall be provided and maintained.
Multi-family units (market rate)	For each efficiency dwelling unit, 2 spaces which shall be either enclosed or covered
	For each one-bedroom or two-bedroom unit, 3 spaces, two of which shall be enclosed
	For each additional bedroom above two, 1 space which shall be enclosed or covered
	Guest parking for each 4 units or fraction thereof, 1 space
Multi-family units (affordable)	For each efficiency or one-bedroom dwelling unit, 1 space
	For each two-bedroom or three-bedroom unit, 2 spaces, inclusive of guest parking
	For each four-bedroom or larger unit, 2 ½ spaces
	Guest parking for each 4 units or fraction thereof, 1 space
Single-room occupancy	For two units, 1 space (inclusive of guest parking) In addition, 2 spaces for the resident manager
Small residential care facility	2 enclosed and 2 unenclosed spaces

Visitor-Serving Commercial Uses

Hotel	2 spaces for each room, plus 1 space for the average, per-shift number of employees, plus 1 space for each 100 square feet of gross floor area used for consumption of food or beverages, or public recreation areas, plus 1 space for each 5 fixed seats, or for every 35 square feet of assembly area where there are no fixed seats in meeting rooms or other assembly areas.

Visitor-Serving Commercial Uses (cont'd)

Motel or motor hotel	1 space for each keyed room, plus 1 space for the average, per-shift number of employees.
Boarding/lodging houses, student housing, dormitories, and fraternity/sorority houses	2 spaces for each 3 guest rooms, plus 2 spaces for each dwelling unit. In dormitories, each 100 square feet of gross floor area shall be considered equivalent to one guest room.

Educational and Cultural Uses

Elementary and junior high	2 spaces for each classroom
High school, including auditoriums and stadiums on the site	7 spaces for each teaching station.
College or university, including auditoriums and stadiums on the site	0.85 spaces for each full-time equivalent, less the number of spaces provided to serve on-campus housing facilities in accord with this schedule.
Business, professional or trade schools	1 space for each faculty member or employee, plus 1 space for each 3 students based upon the maximum number of students attending classes at any one time during any 24-hour period
Day nurseries and preschools	1 space for each employee, plus 1 space for each 5 children or 1 space for each 10 children where a circular driveway is provided for the continuous flow of passenger vehicles (for the purpose of loading and unloading children) and which accommodates at least 2 such vehicles.
Libraries, museums, and art galleries	1 space for each 250 square feet of gross floor area.

Places of Assembly and Recreational Uses

Theater, auditorium, arena or stadium, except when part or a school or institutional	1 space for each 3 fixed seats or for every 21 square feet of seating area where there are not fixed seats, plus 1 space for each 2 employees.
Churches	1 space for each 3 fixed seats or for every 21 square feet of seating area where there are no fixed seats.
Chapels, mortuaries or funeral homes	1 space for each 3 fixed seats or for every 21 square feet of seating area where there are no fixed seats in the main chapel, plus 1 space for each 350 square feet of gross floor area outside the main chapel.

Places of Assembly and Recreational Uses (cont'd)

Dance halls, pool and billiard parlors, skating rinks, exhibition and assembly halls without fixed seats, community centers, health clubs, lodge and union halls	1 space for each 3 persons allowed with the maximum occupancy load as established by local building code, or 1 space for each 72 square feet of gross floor area, whichever is greater, plus 1 space for each employee
Bowling alley	5 spaces for each lane.
Golf driving range, public	1 ½ spaces for each 10 linear feet of driving range or 1 space per tee, whichever is greater.
Golf course, regulation, public	8 spaces for each hole, plus 1 space for each employee.
Golf course, miniature or 3 par, public	2 spaces for each hole, plus 1 space for each employee.
Swimming pool, commercial	1 space for each 100 square feet of water surface, plus 1 space for each employee, but not less than 10 spaces for any such use.
Tennis, handball, and racquetball courts, public	2 spaces for each court.
Private golf course, country club, swim club, tennis club, recreation center and other similar uses	1 space for each 4 persons allowed within the maximum occupancy load as established by building code, plus 1 space for each 2 employees.
Stables	1 space for every 5 horses.

Medical and Health Uses

Convalescent and nursing homes, homes for the aged, resthomes and sanitariums	1 space for every four beds or 1 space for every dwelling unit, whichever is greater, plus 1 space for each employee.
Hospitals	1 space for each two patient beds, plus 1 space for each employee.
Dental and medical offices or other similar uses	1 space for each 150 square feet of gross floor area.
Veterinary hospitals and clinics	1 space for each 300 square feet of gross floor area.

Offices Uses

Commercial bank, savings and loan offices, other floor financial institutions, public or private utility office, mutual ticket agency, other similar window service offices.	1 space for each 225 sq. ft. of gross floor area of the main non-bank uses within a bank structure shall provide parking pursuant to specific use guidelines.

Offices Uses (cont'd)

General office and other business, technical service, administrative, or professional offices.	1 space for each 250 sq. ft. of gross floor area.

Business and Commercial Uses

Beauty shop or barber shop	3 spaces for each of the first 2 beauty or barber chairs, plus 1 ½ spaces for each additional chair.
Other personal service establishments, including cleaning or laundry agency of similar use	1 space for each 250 sq. ft of gross floor area.
Restaurants, night clubs, bars and similar establishments for the sale and consumption of food or beverages on the premises	1 space for each 50 sq. ft of service area.
General retail stores, except as otherwise provided	1 space for each 225 sq. ft of gross floor area.
Shopping centers	5 spaces for each 1000 sq. ft of gross floor area within the center; or spaces as required for each individual use within the center. To qualify for the "shopping center" criteria (5/1000) a well balanced mixture of uses within the center must be demonstrated. Where there is an imbalance of high intensity uses, restaurants, theater, bowling alleys, billiard parlors, beauty schools and other such uses and/or long-term parking uses, parking calculations will be based totally or in part on an individual basis.
Food store, grocery store, supermarket, or similar use	1 space for each 225 sq. ft of gross floor area.
Drive-in and window service restaurants providing outdoor eating area or walk-up or drive-up window service	1 space for each 50 sq. ft of gross floor area, but not less than 10 spaces for any such use. The above may be modified for walk-up facilities with no seating area (and beach-front walk-up seating) depending upon the particulars of the individual case.
Laundromats and coin operated cleaners	1 space for each 2 machines.
Automobile service stations	2 spaces for each lubrication stall, rack, or pit, plus 1 space for each gasoline pump outlet.

Business and Commercial Uses (cont'd)

Auto wash, except self-service	Reservoir (line-up) parking equal; to 5 times the capacity of the auto wash. In determining capacity, each 20 linear ft. of wash line shall equal one car length.
Auto wash, self-service	5 spaces for each 2 wash stalls.
Furniture store, appliance store, machinery rental or sales store (excluding motor vehicle rental or sales), and similar establishments which handle only bulky merchandise	1 space for each 500 sq. ft of gross floor area, except floor area used exclusively for storage of loading, plus 1 space for each 500 sq. ft of outdoor sales, display or service area.
Commercial service establishments, repair shops, motor vehicle repair garages, and similar establishments	1 space for each 500 sq. ft of gross floor area, except floor area used exclusively for storage or loading, plus 1 space for each 500 sq. ft of outdoor sales, display or service area.
Automobile, truck, boat, trailer or similar vehicle shops, motor vehicle sales or rental establishment	1 space for each 500 sq. ft of gross floor area, except floor area used exclusively for storage or loading, plus 1 space for each 1000 sq. ft. of outdoor sales, display or service area.
Wholesale establishments, mail order houses, printing and publishing establishments, and cartage or express facilities	1 space for each 500 sq. ft of gross floor area, but not less than 5 spaces, plus 1 space for each employee.
Lumber yard	1 space for each 500 sq. ft of gross floor area, plus 1 space for each 1000 sq. ft of outdoor sales, display or service area, plus 1 space for each 2 employees.
Contractor's storage yard, salvage yard, junk yard, automobile wrecking yard	5 spaces, plus 1 space for each employee.
Retail plant nursery, garden shop including greenhouses or lathhouses, or similar outdoor sales and display	5 spaces, plus 1 space for each 500 sq. ft. of outdoor sales, display or service area.

Manufacturing and Related Uses

Manufacturing or industrial establishment, including offices and other incidental operations on the same site	1 space for each 350 sq. ft of gross floor area, but not less than 3 spaces for each 4 employees.

Manufacturing and Related Uses (cont'd)

Laboratories and research establishments	1 space for each 300 sq. ft of gross floor area, but not less than 3 spaces for each 4 employees.
Warehouses or storage building	1 space for each 1000 sq. ft of gross floor area, but not less than 1 space for each employee.
Public utility facilities, including electric, gas, water, telephone, and telegraph, facilities not having business offices on the premises	1 space for each employee, but not less than 2 spaces for each such facility.

(Ord. 449 § 4, 2019; Ord. 373 § 3, 2013)

3.14.4 Joint Use and Common Parking Facilities

The Planning Commission may permit the joint use of parking facilities to meet the standards for certain commercial, office, or mixed uses under the following conditions:

A. Up to one-half of the parking facilities required for a primarily daytime use may be used to meet the requirements of a primarily nighttime use and up to one-half of the parking facilities required for a primarily nighttime use may be used to meet the requirements of a primarily daytime use; provided, that such reciprocal parking arrangement shall comply with subsection C of this section.

B. The Planning Commission may reduce parking requirements for common parking facilities by up to twenty-five percent in shopping centers or other commercial areas where a parking lot with common access and joint use is provided.

C. The parties concerned shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use is proposed and shall evidence agreement for such use by a proper legal instrument, to which the city is a party.

D. Parking facilities for new development of general office or commercial use, which may cumulatively impact public access and recreation, shall be designed to serve not only the development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit or shuttle buses serving beach recreation areas.

E. A program to utilize existing parking facilities for office and commercial development located near beaches for public access parking during periods of normal beach use when such development is not open for business should be developed. As feasible, new non-visitor serving office or commercial development shall be required to provide public parking for beach access during weekends and holidays. (Ord. 373 § 3, 2013)

3.14.5 Development Standards

The following development standards shall apply to all parking areas with six or more spaces:

A. Location

1. Required parking facilities shall be on the same lot as the structure they are intended to serve, except that with proper legal agreement, the planning commission may approve parking on a separate lot. In no event shall required parking be farther than 300 feet from the use it is required to serve. This distance shall be measured along a legal and safe pedestrian path from the parking space to the nearest entrance of the building or use for which the parking is required.

2. The required parking spaces may be located in interior side and rear setbacks. Except for schools and public safety facilities, no parking space, either required or otherwise, shall be located in any required front or street-side setback area, unless regulations provide otherwise.

B. Access. There shall be a minimum ten-foot wide, three-inch thick, asphaltic or cement concrete, paved, vehicular accessway from a public street or alley to off-street parking facilities.

C. Screening

1. Where a parking area abuts or is across the street from a residential district, it shall be separated therefrom by a solid masonry wall not less than 42 inches in height. The planning commission

may waive this wall requirement if additional setback and screening planting, or landscaped berms are to be provided.

2. Where a parking area is across the street from a residential district, there shall be a border of appropriate landscaping not less than five feet in depth, measured from the street right-of-way line, along the street frontage.

3. Parking areas shall be screened from view from all designated highways.

D. Layout and Paving

1. Parking areas shall provide for a twenty-five foot outside turning radius within the facility and a thirty-foot outside turning radius into public alleys.

2. Except in residential parking facilities with less than six spaces, parking spaces shall be arranged so that vehicles need not back onto or across any public sidewalk.

3. Off-street parking facilities shall be designed so that a vehicle within the parking facility shall not be required to enter a street to move from one location to any other location within that parking facility. Separate non-contiguous parking facilities may be provided with independent entrances for employee and visitor parking, provided the use of each lot is clearly identified on proposed plans and at the entrances to each lot.

4. No dead end parking aisles serving more than five stalls shall be permitted unless the aisle is provided with a turnaround area installed in a manner meeting the approval of the Manager.

5. Tire stops shall be provided within all parking areas.

6. All parking areas shall be surfaced with asphaltic or cement concrete paving which is at least three inches thick or permeable paving of comparable load-carrying capacity and durability.

7. Parking stalls shall be at least nine feet by twenty feet minimum, and shall be marked with lines or indicated with special paving materials. The access lanes shall be clearly defined and shall include directional arrows to guide internal movement traffic. Compact parking spaces are permitted, but shall not exceed twenty percent of the total number of required spaces. Compact stalls shall be a minimum of eight feet by fifteen feet six inches and shall be marked for compact use only.

8. Off-street parking facilities shall be designed so that provision is made, to the satisfaction of the Manager, for the accommodation of vans, motorcycles, and bicycles.

E. Landscaping

1. A landscaped planter bed of at least five feet in width with a 6-inch high cement concrete berm shall be installed along the entire perimeter except for those areas devoted to perpendicular accessways.

2. A minimum of five percent of the paved parking area shall be devoted to interior planting areas. Extensive use of trees is encouraged. All planting areas shall be at least three feet wide. Perimeter planting shall not be considered part of this required interior planting.

3. Where topography and gradient allow, parking lots should be depressed and/or screened from view by landscaped berms and hedges.

4. Where trees already exist on the property, the design should make the best use of this growth and shade. Such trees shall be protected by a tree well with a diameter sufficient to insure their continued growth.

5. Planting areas should be distributed throughout the lot as evenly as possible, but variations from this pattern may be granted by the Manager when a different pattern would result in the overall aesthetic improvement of the project. Innovation in design and materials is encouraged.

6. Wherever a center divider separates parking stalls facing each other, tree wells shall be established not more than fifty feet apart for large trees (exceeding twenty feet spread at maturity), or not more than thirty feet for small and medium-sized trees.

7. All plantings shall be permanently and regularly maintained free of debris and in conformity with the accepted practices for landscape maintenance.

8. Required landscaping shall be irrigated with greywater, where feasible.

F. Lighting. Lighting, where provided to illuminate a parking area, shall be hooded and so arranged and controlled so as not to cause a nuisance either to highway traffic or to adjacent properties.

G. Usability. The required off-street parking facilities and driveways shall not be used for any purpose other than as required by this chapter. Unless otherwise provided by an approved use permit, no owner or tenant shall lease, rent or otherwise make such required parking available to any person who does not occupy the premises for which the parking is required.

H. Seasonal or Peak Parking Areas. With the approval of the planning commission, the above development standards may be waived or conditionally waived for a portion of the required parking spaces where the applicant can show that such spaces are required only on a periodic basis. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.14.6 Loading

A. The following off-street loading spaces shall be provided and continuously maintained and shall be not less than ten feet in width, twenty feet in length, and with fourteen feet of vertical clearance:

Total Square Feet of Building Space	Loading Spaces Required
Commercial Buildings (gross floor area)	
3,000—15,000	1
15,001—45,000	2
45,001—75,000	3
75,001—105,000	4
105,001—and over	5

Total Square Feet of Building Space	Loading Spaces Required
Commercial Outdoor Sales (gross area)	
0—5,000	1
5,001—45,000	2
45,001—105,000	3
105,001—and over	4
Institutional (gross floor area)	
3,000—20,000	1
20,001—50,000	2
50,001—80,000	3
80,001—110,000	4
110,001—and over	5

B. When the lot upon which the loading spaces are located abuts an alley, such loading spaces shall adjoin or have access from the alley. The length of the loading space may be measured perpendicular to or parallel with the alley. Where such loading area is parallel with the alley and the lot is fifty feet or less in width, the loading area shall extend across the full width of the lot. The length of a loading area need not exceed fifty feet for any two spaces.

C. Loading space required by this section may occupy a required rear or interior side setback, but not a required front or street side setback. Where the loading is permitted in a setback, the setback may be used in calculating the area required for loading, providing that there be no more than one entry or exit for each sixty feet of lot frontage or fraction thereof.

D. All loading spaces shall be separate, striped spaces in addition to the required parking spaces not within a required parking lot drive, backout space or aisle; except, that for commercial buildings with a gross floor area of less than fifteen thousand square feet, the loading space may be within a parking lot drive, backout space or aisle.

E. No loading space shall be located on a dead end driveway, accessway, aisle, or alley unless a turn-around circle with a minimum radius of ninety feet is provided adjacent to the loading space. (Ord. 373 § 3, 2013)

3.15. SIGNS

3.15.1 Purpose

These sections are intended to implement the City's land use and environmental goals, policies and objectives, with particular regard to maintaining a city that is visually attractive and to preserving and enhancing public access to the shoreline, inland trails and public parks, and the visual qualities of the community's scenic areas, streets and highways . Standards are provided to safeguard the life, health, property, and public welfare by regulating the design, quality of materials and construction, illumination, location and maintenance of all signs, sign structures and billboards, while attempting to provide functional flexibility and create an incentive to promote good design. (Ord. 373 § 3, 2013)

3.15.2 Goals

This Chapter shall apply to all signs within the City. The goals of these regulations include the following:

A. To preserve and enhance the unique character and visual appearance of the City.

B. To assure proper expression through visual communications involving signs that are compatible with the character and environment of this community.

C. To promote fairness in competition and retain identity in the business community while recognizing the importance of well designed business signs.

D. To enhance the visual quality of the City's scenic area, roads, and streets.

E. To recognize the integral part played by signs in the overall appearance of the City.

F. To reduce possible traffic and safety hazards by prohibiting signs that are distracting to motorists.

G. To recognize the functions and importance of signs for businesses and the benefit of well designed business signs to the community as a whole.

H. To provide guidance and direction for sign users and sign designers as to what constitutes appropriate signs in the City.

I. To establish standards that will encourage business signs to be used for the purpose of business identification.

J. To protect and provide for public access to and along the shoreline, inland trails and public parklands.

K. To develop a uniform signage program to assist the public in locating and recognizing shoreline and trail access points. In areas containing environmentally sensitive habitat or safety hazards, signs may be posted in English and in Spanish describing the habitat or safety hazard once the accessway or trail is opened by a public agency or private association. (Ord. 373 § 3, 2013)

3.15.3 Prohibited Signs

Except for those signs allowed under the provisions of Section 3.15.4 (E) of the Malibu LIP, "Special permits," the following signs are prohibited:

A. Outdoor advertising displays, structures or signs.

B. Portable signs.

C. Exposed neon, flashing or scintillating signs, except for public service time and temperature signs, which shall not be flashing, animated or revolving in nature.

D. Revolving signs.

E. Devices dispensing bubbles and free floating particles of matter.

F. Any notice, placard, bill, card, poster, sticker, banner, sign, advertising or other device affixed or attached to or upon any public street, walkway, crosswalk, other rights-of-way, curb, lamppost, hydrant, tree, telephone booth or pole, lighting system or any fixture of the police or fire alarm system.

G. Devices projecting or otherwise producing the image of an advertising sign or message on any surface or object.

H. Projecting signs.

I. Signs which project or encroach into any existing or future street right-of-way.

J. Automatic changing signs or electronic message center signs, except for public service time and temperature signs, and public safety signs such as changeable traffic message signs.

K. Streamers, banners, balloons, flares, flags (other than national, state, or local government flags), pennants, propellers, twirlers, and similar attention-getting display or device with the exception of the following:

1. Holiday decorations, in season, displayed for an aggregate period not exceeding sixty (60) days in any one (1) calendar year, except no advertising of the business or products shall be permitted.

2. Grand opening and special event displays approved by the Manager in the manner hereinafter provided.

L. Except as hereinafter provided, freestanding or pole signs, except for onsite directional signs.

M. A vehicle related portable freestanding sign or any sign placed within, affixed or attached to any vehicle or trailer on a public right-of-way, or on public or private property, for the purpose of advertising an event or attracting people to a place of business, unless the vehicles or trailer is used in its normal business capacity and not for the primary purpose of advertising an event or attracting people to a place of business.

N. Signs or sign structures which by color, wording or locations resemble or conflict with traffic control signs or devices.

O. Signs that create a safety hazard by obstructing the view of pedestrian or vehicular traffic.

P. Sign structures and supports no longer in use, for a period of sixty (60) days by the owner, tenant, or lessee.

Q. Signs painted directly on an exterior wall, fence, fascia or parapet.

R. Signs that display a message or graphic representation that is lewd, indecent, or offensive to public morals.

S. Signs for the purpose of commercial advertising created by the arrangement of vegetation, rocks, or other objects such as on a hillside visible to pedestrians or motorists.

T. Roof signs.

U. Combination signs.

V. Signs which are enacted after this date that do not conform to the provisions of these section are prohibited.

W. Signs advertising off-site non-coastal related uses or services shall be prohibited in public beaches and parks.

X. Signs which restrict public access to State tidelands, public vertical or lateral access easement areas, or which purport to identify the boundary between State tidelands, and private property shall not be permitted.

Y. Signs which obstruct or degrade public views to scenic areas from public viewing areas and scenic roads are prohibited.

Z. New billboards. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.15.4 Permit Requirements and Procedure

A. Application. No person shall place, erect, modify, alter or repaint, or permit the placement, erection, modification, alteration or repainting of any sign, unless otherwise specifically exempted by this Chapter, without first obtaining a sign permit in accordance with the provisions of this section. The application for such sign permit shall be made on the form provided by the Planning Department and shall be accompanied by the required fee. Such application shall set forth and contain the following information and materials:

1. The location and size of any existing or proposed buildings or structures on the property, which are or will be under the ownership or control of the applicant.

2. The location of off-street parking facilities, including major points of entry and exit for motor vehicles where directional signs are proposed.

3. The position of the proposed sign and its relationship to existing or proposed adjacent buildings and structures which are or will be under the ownership or control of the applicant.

4. The proposed design, size, exact colors, materials and location of the sign or sign structure.

5. The method of attachment to any structure.

6. A statement showing sizes and dimensions of all other signs existing on the property under the ownership or control of the applicant.

7. A statement showing the size and color relationships of such sign or sign structure to the appearance and design of existing or proposed buildings and structures on the property.

8. Photographs of all sides of any building or renderings of proposed buildings.

9. Such other information as the Planning Department may require to secure compliance with this Chapter.

B. Review. An application for a sign permit for the placement or erection of a new sign or the modification, alteration or repainting of an existing sign shall be reviewed by the Manager. The Manager shall approve the application if the Manager finds that such application satisfies the criteria set forth in subsection C of this Chapter. Any decision made by the Manager may be appealed in accordance with the provisions of the Malibu Zoning Ordinance.

C. Criteria. The following criteria shall be used in reviewing an application for a sign permit:

1. That any business sign is necessary for the applicant's enjoyment of substantial trade and property rights;

2. That the sign is consistent with the certified Local Coastal Program, general plan and the provisions of the Municipal Code;

3. That the sign is not detrimental to the public health, safety, or welfare;

4. That the size, shape, color, and placement of the sign is compatible with the building it identifies;

5. That the size, shape, color, and placement of the sign is compatible with the neighborhood and other lawful signs in the area;

6. That both the location of the proposed sign and the design of its visual elements (lettering, words, figures, colors, decorative motifs, spacing, and proportions are legible under normal viewing conditions prevailing where the sign is to be installed;

7. That the location and design of the proposed sign does not obscure from view or unduly detract from existing or adjacent signs;

8. That the location and design of the proposed sign, its size, shape, illumination, and color are compatible with the visual characteristics of the surrounding area so as not to detract from or cause depreciation of the value or quality of adjacent properties; and

9. That the location and design of a proposed sign in close proximity to any residential district does not adversely affect the quality or character of such residential area.

10. Signs shall be designed and located to minimize impacts to scenic areas from scenic roads and public viewing areas.

11. Signs approved as part of commercial development shall be incorporated into the design of the project and shall be subject to height and width limitations to ensure that signs are visually compatible with surrounding areas.

D. Exemptions to sign permit requirement.

1. The following signs, if not illuminated, shall be permitted without the requirement of a sign permit in all land use zones:

a. One (1) identification sign not exceeding two (2) square feet in area displaying only the name and/or address of the owner, occupant or use, except that agricultural uses may have one (1) identification sign not exceeding six (6) square feet in area.

b. Directional or safety signs required by law.

c. One (1) each national, state, and local governmental flag properly displayed upon a maximum of one (1) per pole, not to exceed twenty-eight (28) feet in height.

d. Holiday decorations, in season, displayed for an aggregate period not exceeding sixty (60) days in any one (1) calendar year.

e. Religious, charitable, civic, homeowners association, educational or cultural posters, affixed to a building wall or window area, not exceeding sixteen (16) square feet in area which are installed in a temporary condition.

f. Utility and telephone pay station signs.

g. Official traffic, fire and police related signs, temporary traffic control signs used during construction, utility facilities and substructure location and identification signs and markers required to protect said facilities, and other signs and markers required or authorized by the City of Malibu, the State Department of Transportation, or any other public agency.

h. Notices required to be posted by law.

i. Signs for public or quasi-public uses. Directional and public convenience signs for public and quasi-public uses may be permitted on public property. The design of such signs shall conform to standard directional sign specifications promulgated by the Manager and approved by the planning commission. The total number of signs allowed shall be based on the minimum number necessary for adequate public identification as determined by the Manager.

j. Signs indicating the location of or directions to public access to the shoreline, trails or parklands.

2. Residential land use districts.

a. Nameplates. Each residential dwelling is permitted one (1) nameplate per street frontage indicating the names of the residence/occupants and/or the street address of the residence. The sign shall not exceed two (2) square feet in area.

b. Agricultural uses. Each agricultural use is permitted one (1) unilluminated sign indicating the name and address of such use. Such sign shall not exceed six (6) square feet in area and if located on a fence or stake, shall not be more than six (6) feet in height.

c. Real estate advertising signs. One (1) unilluminated, double-faced real estate advertising sign is permitted, not to exceed six (6) square feet in area and six (6) feet in height. Such sign shall contain information restricted to the sale or rental of the premises on which located. Such sign shall be situated no less than five (5) feet from the inside line of the sidewalk, or if there is no sidewalk, from the property line. Such sign shall remain on the premises only during the period of time that the premises are being offered for sale and in any event shall be removed seven (7) days after the property is sold or rented or the offer for sale or rent is terminated.

d. Open house signs. During the period when real estate is offered for sale or rent and while a salesperson is physically present on the premises, a sign indicating that an open house is being conducted is permitted. the sign shall not exceed three (3) square feet in area; and if located on a stake, no part of the sign shall exceed four (4) feet above ground level. Off-site directional signs may be permitted for an open house, subject to the following provisions:

   i. Such signs shall not exceed three (3) square feet in area;

   ii. No more than two pole flags not exceeding two square feet or five feet in height shall be used;

   iii. Such signs shall be located on private property only;

   iv. Such signs shall be allowed only during daylight hours;

   v. Such signs shall be located not less than five (5) feet from the inside line of the sidewalk or, if there is no sidewalk, from the property line.

e. Signs for special events including temporary events exempt from CDP requirements. Temporary signs not exceeding sixteen (16) square feet in area pertaining to events of civic, philanthropic, educational or religious organizations may be permitted provided that such signs are posted for no more than thirty (30) days prior to and seven (7) days after such event.

f. Garage sale signs. One (1) non-illuminated double-faced sign is permitted during the time of a garage sale. Such sign shall not exceed six (6) square feet in area and, if located on a fence or stake, shall not be more than six (6) feet in height. In addition, off-site directional signs may be permitted during the same period subject to the following provisions:

   i. Such signs shall not exceed three(3) square feet in area.

ii. Such signs shall be located on private property only; and

iii. Such signs shall be limited to four (4) in number.

3. Multiple residential districts

a. Purpose. In authorizing signs for this zone, it is recognized that larger residential complexes and other permitted uses require identification as separate identities. The intent of these regulations is to strive for a single sign per complex or use to eliminate clutter and to promote compatibility, proportion, simplicity and sign effectiveness.

b. Signs - Apartments. One (1) monument identification sign not exceeding forty-eight (48) square feet in area, including the base, and six (6) feet in height may be erected on the public street frontage upon which the apartment complex has access. Such sign shall be set back a minimum of five (5) feet from any property line. In addition, a directory sign not exceeding one (1) square foot of sign area per apartment and five (5) feet in height may be installed on each building wall facing a public street upon which the apartment complex has access.

c. Signs - Condominiums. One (1) monument identification sign not exceeding forty-eight (48) square feet in area, including the base, and six (6) feet in height may be erected on each public street frontage upon which the complex has public access. Such signs shall be set back from any property line at least five (5) feet. In addition, interior directional signs which are visible from any public right-of-way, may be approved by the Manager to identify special elements of such complexes such as clubhouses and other common area facilities provided that such signs do not exceed six (6) square feet in area and four (4) feet in height. Interior directional signs not visible from any public right-of-way shall not be subject to the requirements of this paragraph.

d. Other permitted uses. For each nonresidential use not more than one (1) monument identification sign per public street frontage upon which such use has public access may be erected to identify the use provided that such sign does not exceed forty-eight (48) square feet in area, including the base, and six (6) feet in height. Such signs shall be set back a minimum of five (5) feet from any property line.

e. Real estate advertising signs. One (1) real estate sign is permitted per unit being offered for sale, lease or rent. Such signs shall not exceed six (6) square feet in area and six (6) feet in height, and shall be designed and located in a manner approved by the Manager. Such sign shall be removed with seven (7) days after the property is sold or rented or the offer for sale or rent is terminated. Property shall be deemed to be sold upon the close of escrow.

f. Signs for special events. Temporary signs not exceeding sixteen (16) square feet in area pertaining to events of civic, philanthropic, educational or religious organizations may be permitted provided that such signs are posted for no more than thirty (30) days prior to and seven (7) days after the event.

E. Special permits. Nothing contained in this Chapter shall prohibit the City from granting a temporary special permit or otherwise permitting, on such terms as it deems proper, sign or like advertising pertaining to any civic, patriotic or special event of general public interest provided that the council finds that such signs or advertising will not be materially detrimental to the public health, safety or welfare, nor harmful to adjacent properties or uses. The Manager may grant minor special permits. Said signs shall be limited to a maximum of two (2) per parcel and shall not exceed sixteen (16) square feet in size. Said signs shall be located a minimum of ten (10) feet from any public right-of-way. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.15.5 General Provisions

A. Entitlements strictly construed. Since the regulations provided by this Chapter are established to protect and promote the public health, safety, and general welfare, any sign entitlement authorized hereunder shall be strictly construed to further the purposes of this Chapter.

B. Sign integration requirement. All signs shall be designed as an integral part of the total building design.

C. Sign orientation. All signs shall face a public or private right-of-way, either on or abutting the property upon which such signs are located.

D. Number of colors. All permanent signs shall contain no more than four (4) different colors. For the purposes of this provision, white and black shall be considered colors. Different shades shall be considered separate colors. A logo is not subject to the four-color limitation.

1. Shopping Center Signs. All signs in shopping centers shall comply with each of the following.

a. Each sign shall contain one or two of the same four (4) colors as every other sign throughout the center.

b. All sign components shall have the same, subdued and uniform background in terms of color, illumination and material.

c. All lettering shall be the same style and color as other signs in the center.

d. A logo shall not be larger than 25 percent of the sign area and is not subject to the four-color limitation.

e. The sign structure and any related supports shall be the same color and material throughout the center.

E. Sign copy. Not more than twenty-five (25) percent of the total area of any sign shall include descriptive wording which is not a part of the name of the business.

F. Types of materials. The types of materials for sign structures shall, if possible and practicable, be similar to or the same as materials used in the related buildings.

G. Illumination of signs. Unless otherwise prohibited by this Chapter, signs may be illuminated subject to the approval of the Manager to ensure that such illumination does not interfere with the use and enjoyment of adjacent properties or create any public safety hazards. The approval of any illuminated sign shall not be final until thirty (30) days after installation during which period the Manager may order the dimming of any illumination found to be excessively brilliant, and no sign approval shall be valid until such order has been carried out to the satisfaction of the Manager. Illumination shall be considered when it prevents perception of objects or building beyond or in the vicinity of the sign. In no case shall an illuminated sign or lighting device be so placed or directed as to permit the beams and/or illumination therefrom to be directed or beamed upon a public street, walkway, or adjacent properties so as to cause glare or reflection that may constitute a traffic or safety hazard or interfere with the use and enjoyment of adjacent properties. Except for automated teller machines, no sign shall be illuminated after 11:30 p.m. or close of business, whichever occurs last.

1. In no event shall the following limits be exceeded:

   a. Four (4) 430-milliamp tubes for fluorescent internal lighting,

   b. 30-milliamp for neon internal lighting,

   c. Two (2) 40-watt floods for external lighting.

H. Obstruction of public passage. No signs shall be installed so as to obstruct any window, door, fire escape or other emergency exit of any building.

I. Required information on signs. All permanent signs approved under these regulation shall have the name of the maker, the date of installation and the city sign permit number legibly placed on the lower right hand corner of the face of the sign in a conspicuous place. As an alternative, such information may be placed on the base of the sign at a location visible and readable from the adjacent public or private right-of-way.

J. Maintenance of signs. All signs shall be maintained in a neat and attractive, well-repaired condition. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.15.6 Signs Subject to Permit

The sign entitlements provided by this section shall be considered the maximum permitted sign entitlements under the Malibu LIP. Such sign entitlements may be reduced as a condition of approval for the sign permit for a particular sign or signs if necessary to satisfy the sign criteria set forth in the Malibu LIP.

A. Commercial Land Use Districts.

1. Purpose. The purpose of sign regulation in the commercial and business land use zones is to limit the number of signs per complex to eliminate clutter and to promote compatibility, proportion, simplicity and sign effectiveness.

2. Basic sign entitlement- Business park and retail uses. Each separate business shall be limited to one (1) primary sign integrated into the design of the building. Accessory signs shall be used only to improve the effectiveness of the sign program in relationship to the mass of the building or to indicate legitimate accessory uses. The signs permitted under this paragraph 2 shall be referred to as the "basic sign entitlement." Except as other provided by this Chapter, the following sign area limitations shall apply:

   a. The total aggregate area of a primary sign and accessory signs for any business in a building located within one hundred (100) feet of any public or private right-of-way shall not exceed one (1) square foot of sign area for each foot of primary building frontage. In no event, however, shall sign area exceed fifty (50) square feet and such sign shall be located on primary frontage. In the event that one side of the building does not abut a street and exceeds one hundred twenty-five (125) feet in length, there shall be permitted a total of one (1) secondary sign on the building which shall not exceed twenty-five (25) square feet in sign area. The secondary sign may be increased up to fifty (50) square feet in lieu of a primary sign. Such sign shall advertise solely the name of the business center or primary tenant. No secondary sign shall be illuminated. Unless otherwise approved by the Planning Commission, no signs shall be closer than six (6) feet from any other sign permitted under this Chapter. The maximum of any one dimension shall not exceed twenty (20) percent of the building wall, or thirty (30) feet, whichever is less.

   b. The total aggregate area of a primary sign and accessory signs for any business in a building located more than one hundred (100) feet of any public or private right-of-way shall not exceed one (1) square foot of sign area for each foot of primary building frontage. In no event, however, shall such sign area exceed seventy (70) square feet and such sign shall be located on the primary frontage. In the event that one (1) side of the building does not abut a street and exceeds one hundred twenty-five (125) feet in length, there shall be permitted a total of one (1) secondary sign on the building which shall not exceed thirty-five (35) square feet in sign area. The secondary sign may be increased up to seventy (70) square feet in lieu of a

primary sign. Such sign shall advertise solely the name of the business center or primary tenant. No secondary sign shall be illuminated.

c. Unless otherwise approved by the Planning Commission, no signs shall be closer than six (6) feet from any other sign permitted under this Chapter. The maximum of any one dimension shall not exceed twenty (20) percent of the building wall, or thirty (30) feet, whichever is less.

d. For a single business totally occupying a commercial building, which is not part of a larger complex, project, center or park, or an outdoor display; and within the limitations of the provisions of subparagraphs a and b, above, a freestanding monument sign is permitted, subject to the following standards:

i. The sign shall be a maximum of forty-eight (48) square feet in area, including the base.

ii. The sign shall have a maximum height of six (6) feet.

iii. The sign shall be located a minimum of five (5) feet from any public or private right-of-way.

iv. The maximum length of any side of the sign shall not exceed two (2) times the dimension of any other side.

e. Major tenants in shopping centers which have a frontage greater than one hundred (100) feet are permitted to have a maximum sign area of two hundred (200) square feet.

f. Business maintained exclusively on the second floor of a two (2) story building may be allowed up to ten (10) square feet of sign area adjacent to the first floor entrance. Second floor businesses sharing a common entrance with one (1) or more first floor businesses shall be limited to a ten-square-foot directory sign at the first floor entrance.

3. Basic sign entitlement - Office uses. Office buildings shall be limited to one (1) primary sign solely to identify the name of the building, integrated into the design of the building. The signs permitted under this paragraph 3 shall be referred to as the "basic sign entitlement." Except as otherwise provided by this Chapter, the following sign area limitations shall apply.

a. The total aggregate area of a primary sign for any office building located within one hundred (100) feet of any public or private right-of-way shall not exceed one (1) square foot of sign area for each foot of primary building frontage. In no event, however, shall such sign area exceed fifty (50) square feet and such sign shall be located on the primary frontage. In the event that one side of the building does not abut a street and exceeds one hundred twenty-five (125) feet in length, there shall be permitted a total of one secondary sign on the building which shall not exceed twenty-five (25) square feet in sign area. The secondary

sign may be increased up to fifty (50) square feet in lieu of a primary sign. Such sign shall advertise solely the name of the office center or primary tenant. No secondary sign shall be illuminated. Unless otherwise approved by the Planning Commission, no signs shall be closer than six (6) feet from any other sign permitted under this Chapter. The maximum of any one dimension shall not exceed twenty (20) percent of the building wall, or thirty (30) feet, whichever is less. The maximum height of the sign shall be determined by the Manager.

b. The total aggregate area of a primary sign and accessory signs for a building located more than one hundred (100) feet of any public or private right-of-way shall not exceed one (1) square foot of sign area for each foot of primary building frontage. In no event, however, shall such sign area exceed seventy (70) square feet and such sign shall be located on the primary frontage. In the event that one side of the building does not abut a street and exceeds one hundred twenty-five (125) feet in length, there shall be permitted a total of one (1) secondary sign on the building which shall not exceed thirty-five (35) square feet in sign area. The secondary sign may be increased up to seventy (70) square feet in-lieu of a primary sign. Such sign shall advertise solely the name of the office center or primary tenant. No secondary sign shall be illuminated. Unless otherwise approved by the planning commission, no signs shall be closer than six (6) feet from any other sign permitted under this Chapter. The maximum of any one dimension shall not exceed twenty (20) percent of the building wall, or thirty (30) feet, whichever is less. The maximum height of the sign shall be determined by the Manager.

c. In lieu of a sign on the building as specified in (a) and (b) above, an office building is permitted to have a freestanding monument sign. Said sign shall be a monument sign not exceeding forty-eight (48) square feet in area, including the base, and a maximum of six (6) feet from any public right-of-way and shall be used solely to identify the name of the office building.

4. Frontage on two or more streets. A business located in a building having frontage on more than one (1) public right-of-way may use the basic sign entitlement on one (1) frontage, and one-half of the allowance on the second public frontage. Said allowance shall only be utilized on the frontage on which the allowance is based. For the purposes of this paragraph, frontage shall include any entrance or exit to the premises upon which the subject business is located from a public right-of-way even though the subject business does not actually front such right-of-way. In addition, a business with a public entrance on a secondary frontage on a private right-of-way may have a sign located on such frontage which does not exceed ten (10) square feet in area.

5. Commercial and business complex, center or park. In addition to the basic sign entitlement, any commercial and business complex, center or park which has a common name and is in excess of two (2) acres in area is permitted one (1) complex identification sign per one thousand (1,000) feet of public right-of-way. Said sign shall be a monument sign not exceeding forty-eight (48) square feet in area, including the base, and a maximum of six (6) feet in height. Such signs shall be set back a minimum of five (5) feet from any public right-of-way and shall be used solely to identify the complex, center or park. Any commercial and business complex, center or park, in

which buildings are located fifty (50) feet or more from public right-of-way, shall be allowed one (1) address monument sign, identifying solely the address of the property, per main driveway, not to exceed a total of one (1) sign per five hundred (500) feet of public right-of-way. Address monument signs shall not exceed a total of one (1) sign per five hundred (500) feet of public right-of-way. Address monument signs shall not exceed sixteen (16) square feet in area, including the base, and shall not exceed five (5) feet in height, and shall be set back a minimum of five (5) feet from any public right-of-way. Complex identification signs and address monument signs may be combined, provided that the combined complex/address sign not exceed sixteen (16) square feet in area, including the base, and shall not exceed five (5) feet in height, and shall be set back a minimum distance of five (5) feet from any public right-of-way.

6. Early review. An application for the first new sign in a commercial or business complex, center or park shall be accompanied by a sign program for the entire complex, center or park in order that all future signs are uniform and consistent with the requirements of this Chapter.

7. Prohibited locations. No signs shall be located in such a manner as to face in the direction of or be visible to property in a residential district when such sign would be less than two hundred (200) feet from such residential property unless such sign faces and is parallel to a public right-of-way.

8. Second-story businesses. Businesses maintained exclusively on the second floor of a two-story building may be allowed up to ten (10) square feet of the sign area adjacent to the first floor entrance.

9. Signs for pedestrian traffic. Where the principal sign for a business is located so that it cannot be seen by pedestrian traffic, an identification sign, in addition to that otherwise allowed under this Chapter, is permitted. Such sign shall be no larger than three (3) square feet per side and shall be designed and located so as to not distract from the appearance of the building or violate the purposes of this Chapter.

10. Signs within window areas. Informational signs not to exceed a maximum of five (5) square feet of the window area of a business may be used. Such signs shall be located on the inside of the window and shall not require a sign permit, and shall not be used for the name of the business in excess of twenty (20) percent of said area.

    a. Sale/special event signs. During the period of time that a sale of goods or services is being conducted, one (1) sale sign per window located on the inside of such window is allowed on each public street frontage. Such sign shall be in addition to the total authorized sign area but shall not exceed twenty-five (25) percent of the total window area. Said sign shall be compatible in terms of colors with the permanent signs, except fluorescent color shall be prohibited. Said sale/special event sign shall be limited to a maximum fourteen-day period, not to exceed a total of four (4) said events per year.

    b. Listing of business associates. In addition to the basic sign entitlement, each separate business shall be allowed, without a sign permit, lettering on or behind windows facing the public view indicating the owners, operators, or business associates exercising the use, provided

that such lettering shall be enclosed within a single area and shall not exceed a total of three (3) square feet.

c. Use of attraction boards by theaters. In addition to the basic sign entitlement, one (1) attraction board to advertise theater, or restaurant entertainment is permitted. The maximum permitted size for an attraction board shall be fifty (50) square feet if placed on a building wall facing a public street or twenty-five (25) square feet on each side if such board is incorporated into a monument sign otherwise permitted in this Chapter. The advertising on the attraction board shall be limited to coming and current entertainment only.

11. Gasoline service stations. In addition to the basic sign entitlement, gasoline service stations are allowed the following:

a. One (1) gasoline or fuel price sign per street frontage, placed either on the ground or on a pole, not to exceed twenty (20) square feet in area and six (6) feet in height, advertising the actual price per gallon or liter including all taxes at which regular, premium, and unleaded gasoline, are sold.

Any special conditions required for sale at such price including but not limited to "cash," "credit," "full-service," "mini-service," or "self-service," shall also be indicated.

b. One (1) wall sign advertising the company name and/or logo; the operator; and accessory uses, including but not limited to, "mini-mart," "car wash," not to exceed fifteen (15) square feet in area; or a monument sign advertising the information listed above, which does not exceed forty-eight (48) square feet in area, and complies with the provisions governing monument signs.

c. The restrictions imposed by this Chapter shall not be applicable to displays located on or above the actual fuel pumps, nor shall they apply to stand-up or other type displays of service related products such as motor oil, windshield wipers, credit card applications and similar items.

d. One (1) informational sign located on a building wall not to exceed ten (10) square feet in area.

12. Fast service restaurants. In addition to the basic sign entitlement, fast service restaurants with drive-up or walk through facilities are permitted two (2) menu or reader boards with a maximum area of twenty-five (25) square feet each. For the purposes of determining this maximum area, any pictures or photographs of food products on the perimeter of the board shall not be included within the computation of the maximum area for such board.

13. Automated or manual service facilities. Signs for drive-up or walk-up service windows or machines, whether freestanding or incorporated into a building, require special consideration which, because of

their unlimited variety and character, a uniform sign entitlement cannot be established. Therefore, the sign allowance for such facilities shall be determined when the sign permit application is being reviewed on the basis of their function and use and such signs shall not be allowed as a method for increasing the basic sign entitlement for the principal use or to function as off-site advertising of the principal use. Examples of such facilities are drive-up or walk-up windows for banks, restaurants, liquor and grocery stores, and film processors.

14. Sale, lease and rental signs. Commercial and industrial properties may have sale, lease or rental signs on the following basis:

    a. Under two and one-half (2 1/2) acres, one (1) sign;

    b. Over two and one-half (2 1/2) acres, but less than five (5) acres, two (2) signs;

    c. Over five (5) acres, one (1) sign per street frontage. Such permitted signs shall not exceed fifteen (15) square feet in area or six (6) feet in height and shall be designed and located in a manner satisfactory to the Manager. Such signs shall be removed within seven (7) days after the property is sold or rented or the offer for sale or rent is terminated. The property shall be deemed to be sold upon the close of escrow.

B. Special Purpose Signs.

1. Trade construction signs. One (1) non-illuminated sign per street frontage advertising the various construction trades is permitted on construction sites during the period that valid building permit approval exists. Such signs shall not exceed three (3) square feet per twenty thousand (20,000) square feet of land area with a maximum of thirty-two (32) square feet in sign area and shall be removed before a notice of completion is issued for the building being constructed. No trade construction sign shall exceed six (6) feet in height.

2. “No trespassing” signs. “No trespassing” or “no dumping” signs per one hundred (100) feet of street frontage not exceeding three (3) square feet in area or six (6) feet in height are permitted for each parcel of land. Such signs shall be designed and located on such parcel in a manner approved by the Manager.

3. Any sign which purport to restrict public access to State tidelands or public vertical and lateral easement areas, trails or parklands or to identify the boundary between State tidelands and private property shall not be permitted.

4. Land subdivision signs. Signs advertising land subdivisions shall be limited to one (1) double-faced sign of thirty-two (32) square feet per side, placed at a right angle to the street or two (2) thirty-two-square-foot signs facing the street. The maximum height shall be ten (10) feet. Such signs shall be at least two hundred (200) feet apart and shall be located within the subdivision.

Such signs shall be removed within twelve (12) months or when all lots within the subdivision are initially sold, whichever is sooner. Such signs shall not be illuminated.

5. Lease potential signs. One (1) sign advertising lease potential for future development, not to exceed thirty-two (32) square feet in area and located a minimum of five (5) feet from any property line, is permitted for a single-parcel multiple-unit development. However, such sign shall not be erected until the architectural review approval is received for the proposed project, and all such signs shall be removed before a notice of completion for the development or upon expiration of the architectural review approval. Such signs shall face a public right-of-way and shall not be illuminated.

6. Community and neighborhood identification signs. For identifiable communities or neighborhoods, a forty-eight (48) square foot sign may be permitted for each public street entrance. Such sign may be placed on property line walls for a maximum of one (1) sign on each side of the entrance, or, as an alternative thereto such sign may consist of one (1) monument sign with a maximum height of six (6) feet.

7. Signs on awnings. Painted, non-illuminated signs may be permitted on the borders of marquees, canopies, awnings, arcades, or similar structures or attachments, if located and erected in a manner satisfactory to the Manager. Such signs shall be included in the basic sign area entitlement. Externally lighted signs shall be permitted on the upper or lower surface of fixed marquees and similar structures, the front face of which faces the public right-of-way; provided that the outer dimensions of such signs shall not exceed sixteen (16) inches in height; and provided further that each letter or image on such a sign does not exceed twelve (12) inches in height. The location and design of such signs shall be approved by the Manager. Such signs shall be included in the total basic sign area entitlement.

8. Grand opening signs. During an authorized grand opening event, temporary signs, not exceeding twenty (20) square feet in area may be approved by the Manager. Such signs may consist of one (1) banner on the exterior wall of the building within which the subject business is located. Such signs shall not be displayed more than thirty (30) days from the issuance of the sign permit.

   In addition, during the first four (4) days of a grand opening event, captive balloons, without regard to number, may be permitted provided that such balloons do not extend beyond the lowest point of the roof line of the business, obstruct other business in the vicinity or interfere with pedestrian or vehicle traffic.

   These restrictions shall not in anyway prohibit any person from handing out or giving away balloons as part of the normal activities of a business as long as such balloons are not in a captive state attached to a structure.

9. Directional signs. Directional signs shall be limited in number to the greater of five (5) signs or four (4) signs per frontage for any business premises that has more than one (1) frontage. The maximum area for such signs shall be three (3) square feet, and such signs shall not exceed three

(3) feet in height. A directional sign may display a logo of a business located on the subject property as well as an arrow or other directional symbol and/or words, including but not limited to "parking," "enter," "exit," "do not enter," "drive-thru," "welcome" and other similar messages. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.15.7 Administration

A. Duty to Enforce. The Manager shall have the duty to enforce the provisions of this Chapter.

B. Ambiguity. Whenever any ambiguity arises as to the interpretation of the provisions of this Chapter, the applicant for a sign permit may request that the Planning Commission make a determination as to the meaning and application of the ambiguous provision.

C. Minor Modifications. The Planning Commission may approve minor modifications to the regulations relating to the size, height, number and location of new or existing signs after a public hearing in those cases where an applicant is faced with exceptional circumstances related to the type or location of its business, or is trying to achieve a special design. The applicant shall have the burden of proving that:

1. The sign is or will be integrated into the architecture of the building;

2. The sign is or will not be detrimental to surrounding uses or properties or the community in general; and

3. The approval of such modification is consistent with the purposes of the Malibu Local Coastal Program and this Chapter.

Notwithstanding the foregoing, the size or height entitlement of a sign shall not be increased by more than thirty (30) percent.

D. Discontinuance of a Business. Within thirty (30) days after the discontinuance of a business in any commercial zone or before a new business occupies the premises, whichever comes first, all nonconforming signs and support structures shall be removed and the working or advertising relating to the discontinued business shall be removed from all conforming signs. This section shall not be applicable to the assignment, lease or sublease of an existing business which continues to conduct the same business on the same premises.

E. Nonconforming Sign Maintenance. Except for normal repair or maintenance not exceeding fifty (50) percent of the replacement cost of the sign, as determined by the building official, no nonconforming sign shall be modified or moved unless it complies fully with the provisions of this Chapter.

F. Removal of Illegal Signs on Public Property. The Manager shall remove or cause to be removed any temporary sign unlawfully placed or located on public property. The Manager shall notify in writing the owner of such sign, if such owner is known, that its sign is being held at city hall and that it will be

destroyed if not claimed by the owner within ten (10) days after the date of such notice. In the event that the owner does not claim such sign within said ten-day period, the Manager may destroy or otherwise dispose of such sign. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16. WIRELESS TELECOMMUNICATIONS ANTENNAE AND FACILITIES

3.16.1 Purpose and Objectives

A. Purpose. The purpose and intent of this Section is to provide a uniform and comprehensive set of standards for the development, siting and installation of wireless communication facilities and antennas. The regulations contained herein are designed to protect and promote the public health, safety and community welfare and the aesthetic quality of the City as set forth within the goals, objectives and policies of the General Plan and Local Coastal Program, while at the same time providing for managed development of wireless communications infrastructure in accordance with the guidelines and intent of the Telecommunications Act of 1996.

B. Objectives. Recognizing the City's roles as regulator, service provider, facilitator and user, it is intended that the City shall apply these regulations in furtherance of the following goals and policy objectives, including but not limited to:

1. To retain control of private and public property within the confines of state and federal legislation to regulate wireless telecommunications services.

2. To facilitate the creation of an advanced wireless telecommunications infrastructure for citizens, businesses, industries and schools.

3. To protect the City from potential adverse effects of wireless telecommunications facility development.

4. Ensure that the wireless telecommunications infrastructure is designed to enhance and not interfere with the City's emergency response network. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.2 Site Plan Review

A site plan review permit, pursuant to Section 13.27 of the LCP, shall be obtained prior to erecting a wireless telecommunications antenna and/or facility in any non-residential zoning district (except for the public open space and recreational vehicle park zoning districts) or in any public right-of-way regardless of zoning district, if such wireless telecommunications antenna and/or facility complies with the General Requirements set forth in Section 3.16.5 and the Most Restrictive Design Standards set forth in Section 3.16.6. In addition to the site plan review permit, an encroachment permit shall be obtained for all wireless telecommunication antennas and facilities to be located in any public right-of-way. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.3 Conditional Use Permit

A conditional use permit, pursuant to Chapter 17.66 of the Municipal Code, shall be obtained prior to erecting wireless telecommunication antennas and/or facilities within any rural residential, public open space, or recreational vehicle park zoning districts (unless the antenna and/or facility is to be erected in a public right-of-way and it complies with the General Requirements set forth in Section 3.16.5 and the Most Restrictive Design Standards set forth in Section 3.16.6), or within any other non-residential zoning district if the proposed wireless telecommunications antenna and/or facility does not comply with the Most Restrictive Design Standards set forth in Section 3.16.6. Any wireless telecommunication antennas and/or facilities conditionally approved pursuant to this Section shall comply with the General Requirements set forth in Section 3.16.5. The conditional use permit shall be reviewed by the City based solely upon the location, design and other criteria of this Chapter, as well as for consistency with the General Plan and the health, safety and welfare of the public. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.4 Health & Safety Standards/Radio Frequency Emission Exposure

A. No wireless telecommunications facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the FCC's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters.

B. Failure to remain in continued compliance with the MPE limits shall be grounds for revocation of the discretionary permit. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.5 General Requirements

The following general requirements apply at all times to all wireless telecommunications facilities located in all zoning districts:

A. Each facility must comply with any and all applicable provisions of the Malibu LCP and Municipal Code, including but not limited to provisions of the Uniform Building Code, National Electric Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, and any conditions of approval imposed as part of the approval process.

B. Each facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including, but not limited to, the Federal Communications Commission and the Federal Aviation Administration.

C. The facility must at all times comply with all applicable health requirements and standards pertaining to Radio Frequency emissions.

D. Interference with City communications systems is prohibited. All proposed facility applications shall include reports, as required by the Los Angeles County Fire Department, to evaluate potential interfer-

ence. The applicant shall be responsible for any costs incurred by the City, including the costs of retaining consultants, to review and analyze the reports.

E. Freestanding wireless telecommunication facilities, including towers, lattice towers, and monopoles, shall not exceed 28 feet in height and shall not extend higher than the top of the ridgeline nearest the antenna. The height of a freestanding facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower itself to the tip of the highest antenna or piece of equipment attached thereto.

F. Building-mounted wireless telecommunication facilities shall not exceed 28 feet in height. However, antenna elements, mounted flush on the facade of an existing structure that exceeds 28 feet, may have a height equal to the height of the building. Roof-mounted antennas may extend no more than 3 feet above the roof from which they are attached. Associated roof-mounted equipment cabinets shall not extend more than 5 feet above the roof from which it is attached and shall be setback a minimum of 10 feet from the edge of the roof. All roof-mounted equipment cabinets shall be located behind a mechanical screen wall. In the event that a roof parapet wall screens the equipment cabinets, a mechanical screen wall will not be required.

G. Not more than one (1) ground-mounted antenna site, excluding licensed amateur radio station antennas, shall be permitted on each site.

H. Wireless telecommunication facilities and antennas shall be co-located on existing poles or other facilities when possible. No permittee shall restrict access to an existing antenna location if required to co-locate by the City, and if possible to do so.

I. All electrical support equipment located within cabinets, shelters, or similar structures shall be screened from public view. Roof-mounted electrical support equipment shall be discouraged. Ground-mounted electrical support equipment shall be encouraged. In addition, under grounding of support equipment is required wherever practicable.

J. When possible, wireless telecommunication facilities will be located on existing utility poles provided the antennas do not exceed the height of the utility poles and provided a less intrusive alternative is not available.

K. All antennas shall meet the minimum siting distances to habitable structures required for compliance with Federal Communications Commission (FCC) regulations and standards governing the environmental effects of radio frequency emissions.

L. All antennas shall be located such that any person walking adjacent to the transmitting surface of the antenna will be walking on a grade that is a minimum of eight and one-half feet below the transmitting surface.

M. Lighting of antenna structures and their electrical support equipment is prohibited, except as required by any order or regulation of the Federal Communications Commission (FCC) or the Federal Aviation

Administration (FAA) and except for manually operated emergency lights for use when official operating personnel are on site.

N. No wireless telecommunication facility shall be located within five hundred (500) feet of any school ground, playground or park unless a finding is made, based on technical evidence acceptable to the Planning Manager, as appropriate, showing a clear need for the facility and that no technically feasible alternative site exists.

O. Except for facilities co-located on the same pole or tower, wireless telecommunication facilities located within any residential zone district, except for those facilities placed on utility poles located along Pacific Coast Highway, shall not be located within six hundred (600) feet of any other wireless telecommunications facility, unless a finding is made, based on technical evidence acceptable to the Planning Manager, as appropriate, showing a clear need for the facility and that no technically feasible alternative site exists. This provision shall not apply to wireless telecommunication facilities located within any commercial zone district. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.6 Most Restrictive Design Criteria

In addition to all other requirements set forth in this Chapter, all wireless telecommunications facilities shall meet the following design requirements:

A. Façade-mounted antennas and equipment shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Façade-mounted facilities shall generally not extend more than 18 inches out from the building face.

B. Ground-mounted wireless telecommunication facilities shall be located near existing structures or trees at similar heights for screening purposes where feasible.

C. All wireless telecommunication facilities shall be designed to minimize the visual impact to the greatest extent feasible by means of placement, screening, camouflaging, painting and texturing and to be compatible with existing architectural elements, building materials and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the coverage objectives.

D. All antennas and support structures shall be painted and/or textured to achieve architectural compatibility with the structures for which they are attached and/or located. If ground-mounted, the antennas and support structure shall be painted, textured, landscaped or otherwise camouflaged as much as possible to integrate the structure into the environment. Colors and materials for facilities shall be non-reflective and chosen to minimize visibility to the greatest extent feasible.

E. All wireless telecommunication facilities shall be designed to prevent unauthorized climbing.

F. Roof-mounted antennas and necessary equipment shall be screened from above if visible from higher elevations.

G. Satellite dish or parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

H. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening.

I. All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation. Freestanding monopoles in highly visible locations shall incorporate stealth techniques to minimize their prominence.

J. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, fencing, or other camouflage treatment to minimize visual impacts to the extent deemed necessary by the Planning Manager. Landscaping screening should also be provided if irrigation water is available.

K. No freestanding facility such as a monopole, lattice tower, or similar structure including ancillary support equipment may be located between the face of a building and a public street, bikeway or park.

L. No wireless telecommunications facility shall emit a noise greater than fifty (50) decibels (dB) as measured from the base of the facility. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.7 Standard Conditions of Approval

Each wireless telecommunications antenna and/or facility which is approved through either the site plan review process or a conditional use permit shall be subject to the following standard conditions of approval, in addition to any other condition deemed appropriate by the reviewing authority:

A. The wireless telecommunications antenna and/or facility shall be erected, operated, and maintained in compliance with the General Requirements of Section 3.16.5 and, if applicable, with the Most Restrictive Design Standards set forth in Section 3.16.6.

B. Within thirty (30) calendar days following the installation of any wireless telecommunications antenna and/or facility, the applicant shall provide FCC documentation to the Planning Manager that the unit has been inspected and tested in compliance with FCC standards. Such documentation shall include the make and model (or other identifying information) of the unit tested, the date and time of the inspection, and a certification that the unit is properly installed and working within applicable FCC standards.

C. The installation of any wireless telecommunications antenna and/or facility shall be in compliance with all applicable state and local building, electrical, and mechanical codes.

D. Any substantial change in the type of antenna and/or facility installed in a particular location shall require the prior approval of the Planning Manager.

E. The applicant shall pay to the City a Permit Compliance Fee in an amount to be established by resolution of the City Council.

F. Co-location of wireless telecommunications antennas and facilities pursuant to Section 3.16.8 shall be required whenever it is feasible to do so. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.8 Locating Antennas at Existing Sites

An effort should be made to locate new wireless telecommunications antennas and facilities on existing grandfathered or conforming facilities when feasible. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.9 Minimum Application Requirements

In addition to meeting standard application submittal requirements for discretionary permits, detailed in other sections in this Chapter, all wireless telecommunication facility carriers or providers shall provide the information listed below. As used herein, "Wireless telecommunication facility," "wireless facility," "telecommunication facility," or simply "facility," means an installation that sends and/or receives radio frequency signals, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, cabinets, equipment rooms, accessory equipment and other structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas. The Planning Manager may waive certain submittal requirements or require additional information based on specific project factors.

A. Visual impact demonstration. A visual impact analysis shall be provided showing the maximum silhouette and proposed or required screening. The visual impact analysis shall include photo simulations and any required photo overlays, scaled models or architectural renderings necessary to determine visual impact. A map depicting where the photos were taken shall be included.

B. Narrative. The applicant shall submit a narrative that addresses each of the following paragraphs and subparagraphs. The narrative shall be organized according to subject headings that match those in the paragraphs and subparagraphs listed below.

1. Antennas/Equipment. List the number of proposed antennas and base transceiver stations and/or equipment cabinets and any existing facilities on the site. As used herein, "Antenna" means a device used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based systems.

2. Location. Describe the location and type of antenna installations (stand-alone rooftop, rooftop attached to a mechanical penthouse, building facade, or existing utility towers and poles) and location of the base transceiver station(s), equipment cabinets and/or buildings.

3. Height. List the height of the antenna installation. Carriers must provide documentation that establishes that the proposed facilities have been designed to the minimum height required from a technological standpoint for the proposed site.

4. Radio frequency. List the radio frequency range in megahertz and list the wattage output of the equipment.

5. Radio frequency emissions. Provide a report listing the effective radiated power generated by the proposed facility. The report shall identify exposure levels for both controlled and uncontrolled areas where the levels are projected to be highest.

6. FCC compliance. Provide documentation certifying all applicable licenses or other approvals required by the Federal Communications Commission to provide the services proposed have been obtained.

7. Maintenance. Describe the anticipated maintenance and monitoring program for the facility.

8. Noise/acoustical information. Provide noise and acoustical information for equipment such as air conditioning units and back-up generators.

9. Site selection process. Provide a map and narrative description explaining the site selection process including information about other sites considered and reason for their rejection. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.

10. Geographic service area. Identify the geographic service area for the subject installation, including a map showing the site and the associated "next" cell sites within the network. Describe the distance between cell sites. Describe how this service area fits into and is necessary for the company's service network. Illustrate the geographic area in which the facility could be located showing all other sites that could be used for antenna location. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.

11. Preferred location sites. Each application shall identify the location preference, listed in Section 3.16.10 that the proposed facility is meeting. If the proposed location is not a preferred location, the applicant shall provide a list (by address and Assessor's Parcel Number) and a map at 1:200 scale of all preferred location sites within the service area; what good faith efforts and measures were taken to secure each other of these preferred location sites; describe why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; how and why the proposed site is essential to meet service demands for the geographic service area and the Citywide network. This information is necessary to determine whether there will be a significant gap in coverage if the project is not approved or whether alternatives exist for providing coverage.

12. Preferred mounting technique. Each applicant shall identify the antenna mounting preference, listed in Section 3.16.10 the proposed facility is meeting. If the proposed mounting technique is not a preferred technique, the applicant shall provide a list (by address and Assessor's Parcel Number) and a map at 1:200 scale of all such buildings/sites within the service area; what good faith efforts and measures were taken to secure each of these preferred mounting location/sites; describe why each such site was not technologically or legally feasible and why such efforts were unsuccessful; and how and why the proposed site is essential to meet service demands for the geographic service area and the Citywide network.

13. Cumulative effects. Identify the location of all the applicant's antennas and backup facilities and location of other wireless telecommunications facilities on and near the property; include the following:

    a. Height. The height of all existing and proposed wireless telecommunications facilities on the property, shown in relation to the height limit for the zoning district;

    b. Antennas. The dimension of each existing and proposed antenna, base transceiver station, equipment cabinet and associated building and backup equipment on the property;

    c. Power rating. The power rating for all existing and proposed backup equipment;

    d. Total watts. The total number of watts per installation and the total number of watts for all installations on the building (roof or side);

    e. Facilities within five hundred (500) feet. The number and types of wireless telecommunication facilities within five hundred (500) feet of the proposed site and provide estimates of the cumulative electromagnetic radiation emissions at the proposed site.

C. Co-Location Agreement. All wireless telecommunications carriers shall provide a letter stating their willingness to allow other carriers to co-locate on their facilities wherever technically feasible. When determined to be technically feasible and appropriate, the Planning Manager may require unutilized space to be made available for co-location of other wireless telecommunications facilities, including space for entities providing similar, competing services. Co-location is not required in cases where the addition of the new service or facilities would cause quality of service impairment to the existing facility or if it becomes necessary for the host to go off-line for a significant period of time. As used herein, "Co-location" means an arrangement whereby multiple wireless communication devices share the same structure or site.

D. Planned Facilities. The applicant shall provide a list of planned or anticipated facilities within the City, and their anticipated construction schedules. The Planning Manager may require concurrent processing of planned facilities.

E. Independent Consultant. At the discretion of the Planning Manager and as reasonably required, the applicant may be required to provide an authorization waiver to a permit the City to hire an independent,

qualified consultant to evaluate any technical aspect of the proposed telecommunications facility, including, but not limited to, compliance with applicable federal emission standards, potential for interference with existing or planned public safety emergency response telecommunications facilities, or analysis of feasibility of alternate sites, screening methods or devices. Any authorization for this purpose shall include an agreement by the applicant to reimburse the City for all reasonable costs associated with the consultation. Any proprietary information disclosed to the City or the consultant is hereby deemed not be a public record, shall remain confidential, and not be disclosed to any third party without the express consent of the applicant.

F. Other information. Any other relevant information as required by the Planning Manager. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.10 Preferred Antenna Siting and Mounting Techniques

The following antenna and equipment siting and mounting techniques are preferred:

A. Facade-mounted antennas that meet the visual requirements specified in this Chapter.

B. Roof-mounted antennas that are not visible to the public.

C. Existing monopoles or freestanding towers, utilizing stealthing techniques.

D. Existing utility poles located within the public right-of-way.

E. Monopoles or freestanding towers that utilize stealthing techniques. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.11 Location

Location preference for wireless communications facilities should be given to:

A. Co-Location Sites. Co-located and multiple-user wireless telecommunications facilities will be required when, in the determination of the Planning Manager, it is technically feasible and appropriate and will minimize overall visual impact to the community.

B. Property designated non-residential (except for public open space and recreational vehicle park zoning districts), unless otherwise prohibited pursuant to this Chapter.

C. Facilities Attached or Sited Adjacent to Existing Structures. Whenever possible, facilities shall be located on and/or inside existing structures. Appropriate types of existing structures may include, but are not limited to: buildings, water tanks, telephone poles and utility towers and poles, sign standards, traffic signals, light standards and roadway overpasses.

D. Sites that are not highly visible from adjacent roadways.

E. Sites With Minimum Separation. When co-location is determined to be infeasible by the Planning Manager, sites that are more than five hundred (500) feet from school grounds, playgrounds or parks and which are more than four hundred fifty (450) feet from any other existing wireless facility within any residential zone district, except for those facilities placed on utility poles located along Pacific Coast Highway.

F. Unless otherwise indicated in this Chapter, no telecommunication facility shall be installed on an exposed ridgeline unless the facility blends with the surrounding existing natural and man-made environment and a finding is made that no other location is technically feasible. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.12 Indemnity and Liability for Damages

A. The wireless telecommunications facility provider shall defend, indemnify, and hold harmless the City or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the provider(s) of any such claim, action or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

B. Wireless telecommunications facility operators shall be strictly liable for interference caused by their facilities with City communications systems. The operator shall be responsible for costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the City attributable to the interference. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.13 Cessation of Use or Abandonment

All improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within ninety (90) days of cessation of operation or abandonment of the facility. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.14 Permit, Review, Renewal and Revocation Procedure

A. The City finds that the technology associated with telecommunications equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipate that telecommunications antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The City further finds that it is in the interest of the public health, safety, and welfare that telecommunications providers be required to replace older facilities with newer equipment of equal or greater capabilities and reduced

visual impacts as technological improvements become available. Therefore, any modifications requested to an existing facility for which a permit issued pursuant to this Chapter authorizing establishment of a wireless telecommunications facility shall permit the Planning Manager to review the carrier's existing facility to determine whether requiring newer equipment or applying new screening techniques that reduce visual impacts is appropriate if technically feasible.

B. At any time, the Planning Manager may initiate proceedings to revoke a permit issued pursuant to this Chapter. Grounds for revocation shall be limited to a finding that the owner or operator has abandoned the facility, the facility is no longer in compliance with either the general requirements or design standards of this Chapter, the conditions of approval and the owner or operator has failed to bring the facility into compliance within ninety (90) days after a notice has been sent by the Planning Manager requiring the facility to be brought into compliance, the facility is no longer in compliance with applicable FCC or FAA regulations, the facility has not been upgraded to reduce or minimize its impact to the extent reasonably permitted by the technology available at the time of any requested modifications, or if the Planning Manager determines that revocation would be in the best interest of the public health, safety, or welfare. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

3.16.15 Exempt Telecommunications Facilities

A. Installation of the following antennas and/or appurtenant equipment which complies with all applicable health requirements and standards pertaining to RF emissions is exempt from the provisions of this Chapter subject to any conditions included below:

1. Antennas designed to receive video programming signals from direct broadcast satellite (DBS) services, residential fixed wireless communications, multi-channel multi-point distribution providers (MMD) or television broadcast stations in all zoning districts are exempted, provided that all of the following conditions are met:

    a. The antenna is accessory to an existing use and measures 39 inches (one meter) or less in diameter.

    b. The antenna is installed in a location where it is not readily visible from the public right-of-way.

    c. The antenna shall not be located within a required setback area, driveway or parking space.

2. Amateur radio antenna (including ham and short wave) provided the antenna does not exceed the maximum building height for the zoning district in which it is located by more than 15 feet.

3. Telecommunications facilities exempt from the provisions of this Chapter by operation of state or federal law.

B. The determination of whether or not a proposed facility meets the requirements for an exemption is at the discretion of the Planning Manager. The Planning Manager may require that the application be processed as a Site Development Permit or Conditional Use Permit if the requirements of this section cannot be met. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

CHAPTER 4—ENVIRONMENTALLY SENSITIVE HABITAT AREA OVERLAY

4.1. PURPOSE

The purpose of the environmentally sensitive habitat overlay zone or "ESHA" overlay zone is to protect and preserve areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. The environmentally sensitive habitat overlay zone shall extend not only over an ESHA area itself but shall also include buffers necessary to ensure continued protection of the habitat areas. Only uses dependent on the environmentally sensitive habitat areas and which do not result in significant disruption of habitat values shall be permitted in the ESHA overlay zone.

4.2. DESCRIPTION OF AREA SUBJECT TO OVERLAY

The ESHA overlay provisions shall apply to those areas designated environmentally sensitive habitat area on the Malibu LIP ESHA overlay map and those areas within 200 feet of designated ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions of Section 4.3 of the Malibu LIP shall also be subject to these provisions.

4.3. ESHA DETERMINATION

A. Any area not designated on the ESHA Overlay Map that meets the "environmentally sensitive area" definition (Chapter 2 of the Malibu LIP) is ESHA and shall be accorded all the protection provided for ESHA in the LCP. The City shall determine the physical extent of habitat meeting the definition of "environmentally sensitive area" on the project site, based on the applicant's site-specific biological study, as well as available independent evidence.

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 contributes to the viability of 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 contributes to the viability of species that are designated "fully protected" or "species of special concern" under State law or regulations.

4. Any habitat area that contributes to the viability of species for which there is other compelling evidence of rarity, for example plant species eligible for state listing as demonstrated by their designation as "1b" (Rare or endangered in California and elsewhere) or designation as "2" (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society.

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

6. 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 that are rare or especially valuable because of their nature or role in an ecosystem 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 Malibu LUP ESHA Map and the Malibu LIP 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 ESHA Overlay Map have not yet been amended.

D. In addition to the findings required in Section 13.9 of the Malibu LIP, the City shall make findings as to the physical extent of habitat meeting the definition of environmentally sensitive habitat on the project site, based on the applicant's site specific biological study, available independent evidence, and review by the City biologist and the Environmental Review Board.

4.4. SUPPLEMENTAL APPLICATION REQUIREMENTS

4.4.1. California Department of Fish and Game

Applications for new development on sites containing or adjacent to a stream or wetland shall include evidence of preliminary approval from the California Department of Fish and Game.

4.4.2. Biological Assessment

Applications for new development on property that is 1) within identified ESHA; 2) adjacent to identified ESHA (where the proposed development area is within 200 feet of identified ESHA); or 3) where the initial site inventory (required by Section 13.6 of the Malibu LIP) indicates the presence or potential for sensitive species or habitat, shall include a detailed biological assessment of the site, prepared by a qualified biologist, or resource expert, that includes the following:

A. An assessment identifying biological resources, both existing on the site and potential or expected resources. Where trees suitable for nesting or roosting or significant foraging habitat is present, a formal raptor survey will be conducted as part of the biological assessment. The biological assessment will account for seasonal variations in presence and abundance and will follow standard protocols developed by state or federal resource agencies when available. In the absence of standard protocols for raptors, for nesting raptor surveys (March 1-June 15) or for wintering raptor surveys (December 1-March 15), at a minimum, the area will be surveyed for 2 hours between dawn and 10:00 a.m. on five occasions with at least one week between surveys. If there is appropriate habitat for owls on site, on at least three of the surveys observations will also be made during the period immediately before nightfall.

B. Photographs of the site.

C. A discussion of the physical characteristics of the site, including, but not limited to, topography, soil types, microclimate, and migration corridors.

D. An analysis of the frequency of wildfire affecting the site and the length of time since wildfire has last burned the site vegetation.

E. A map depicting the location of biological resources.

F. An identification of rare, threatened, or endangered species, that are designated or are candidates for listing under State or Federal Law, an identification of "fully protected" species and/or "species of special concern," and an identification of any other species for which there is compelling evidence of rarity, for example, plants designated "1B" or "2" by the California Native Plant Society, that are present or expected on the project site.

G. An analysis of the potential impacts of the proposed development on the identified habitat or species.

H. An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

I. Project alternatives designed to avoid and minimize impacts to sensitive resources.

J. Mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives.

4.4.3. Wetlands

A. Where the biological study, or the initial site inventory (required by Section 13.6 of the Malibu LIP) indicates the presence or potential for wetland species or indicators, the applicant shall additionally submit a delineation of all wetland areas on the project site. Wetland delineations shall be based on the definitions contained in Section 13577(b) of Title 14 of the California Code of Regulations.

B. Wetland delineations will be conducted according to the definitions of wetland boundaries contained in section 13577(b) of the California Code of Regulation. A preponderance of hydric soils or a preponderance of wetland indicator species will be considered presumptive evidence of wetland conditions. The delineation report will include at a minimum a (1) a map at a scale of 1":200' or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the location of sampling points, and (2) a description of the surface indicators used for delineating the wetland polygons. Paired sample points will be placed inside and outside of vegetation polygons and wetland polygons identified by the consultant doing the delineation. (Ord. 303 § 3, 2007)

4.4.4. Exceptions

The following types of development shall not be subject to the provisions of Section 4.4.2 of the Malibu LIP with regard to the supplemental application requirement of a detailed biological study of the site, and shall not be subject to review by the Environmental Review Board:

A. Remodeling an existing structure that does not extend the existing structure footprint.

B. Additions to existing structures that are within the lawfully established graded pad area, or the existing developed/landscaped area if there is no graded pad, and that do not require additional fuel modification.

C. Demolition of an existing structure and construction of a new structure within the existing building pad area where no additional fuel modification is required.

D. New structures and landscaping proposed within the permitted graded pad or permitted development area if there is no graded pad, authorized in a previously approved coastal development permit.

E. New structures within existing, developed neighborhoods where the new structures will be located over 200 feet from an ESHA, as shown on the ESHA overlay map. (Ord. 303 § 3, 2007)

4.5. PERMITTED USES

Development in the following habitats is limited to the uses listed below.

4.5.1. Wetlands

A. Aquaculture, wetlands-related scientific research and wetlands-related educational uses.

B. Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines, where it has been demonstrated that there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

C. Wetland restoration projects where the primary purpose is restoration of the habitat.

4.5.2. Streams

A. Necessary water supply projects

B. Flood protection where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development. Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values. Channel redirection or hardening may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible. Such less intrusive measures shall include, but not be limited to biostructures, vegetation, and soil bioengineering.

C. Developments and restoration projects which have as the primary function the improvement of fish and wildlife habitat.

4.5.3. Other Types of Environmentally Sensitive Habitat

A. Public accessways and trails, including directional signs

B. Interpretive signage designed to provide information about the value and protection of the resources

C. Restoration projects where the primary purpose is restoration of the habitat.

D. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4.5.4 Environmentally Sensitive Habitat Buffers

A. Public accessways and trails, including directional signs

B. Interpretive signage designed to provide information about the value and protection of the resources

C. Restoration projects where the primary purpose is restoration of the habitat.

D. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4.6. DEVELOPMENT STANDARDS

4.6.1. Buffers

New development adjacent to the following habitats shall provide native vegetation buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect.

Vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted within buffers except as provided in Section 4.6.1 (E) or (F) of the Malibu LIP. The following buffer standards shall apply:

A. Stream/Riparian

New development shall provide a buffer of no less than 100 feet in width from the outer edge of the canopy of riparian vegetation. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream.

However, in the Point Dume area, new development shall be designed to avoid encroachment on slopes of 25 percent grade or steeper.

B. Wetlands

New development shall provide a buffer of no less than 100 feet in width from the upland limit of the wetland.

C. Woodland ESHA

New development shall provide a buffer of no less than 100 feet in width from the outer edge of the tree canopy for oak or other native woodland

D. Coastal Bluff ESHA

New development shall provide a buffer of no less than 100 feet from the bluff edge.

E. Coastal Sage Scrub ESHA

New development shall provide a buffer of sufficient width to ensure that no required fuel modification area (Zones A, B, and C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the coastal sage scrub plant community.

F. Chaparral ESHA

New development shall provide a buffer of sufficient width to ensure that no required fuel modification area (Zones A, B, and C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the chaparral plant community.

G. Other ESHA

For other ESHA areas not listed above, the buffer recommended by the Environmental Review Board or City biologist, in consultation with the California Department of Fish and Game, as necessary to avoid adverse impacts to the ESHA shall be required.

4.6.2. Lighting

Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and directed away from ESHA to minimize impacts on wildlife. Night lighting for sports courts, sports fields, or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA shall be prohibited. Permitted lighting shall conform to the following standards:

A. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Planning Manager.

B. Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.

C. The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

D. A light, not to exceed 60 watts or the equivalent, at the entrance to the (identify non-residential accessory structures).

E. No lighting around the perimeter of the site, no lighting for sports courts or other private recreational facilities, and no lighting for aesthetic purposes is allowed.

F. Prior to issuance of Coastal Development Permit, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions.

G. Lighting of the main sports field at Malibu High School may only be permitted if it complies with the following standards:

    1. Lighting shall be minimized, directed downward, and shielded using the best available visor technology and pole height and design that minimizes light spill, sky glow, and glare impacts to public views and wildlife to the maximum extent feasible.

    2. Lighting may only occur for a maximum of three days in any calendar week and must be limited to the following time restrictions:

a. During Pacific Standard Time (defined as of 2011 to be the first Sunday in November to the second Sunday in March), the lights may be illuminated no later than 7:30 p.m. except as indicated below.

b. From each September 1st through May 31st period, inclusive, the lights may only be illuminated after 7:30 p.m. up to 18 times, and then (i) only until 10:30 p.m., (ii) never on consecutive nights, and (iii) on no more than two nights in any given calendar week.

c. The lights may not be illuminated at any time between June 1st and August 31st, inclusive, of any year.

3. For lighting that is to be allowed during bird migration periods (fall migration: September through first week in November, and spring migration: last week of March through May), an avian monitoring plan, that is prepared by a qualified ornithologist/ecologist and reviewed and approved by the City Biologist and the Executive Director of the Coastal Commission, shall be required prior to issuance of the coastal development permit, and the permit shall be consistent with and require compliance with that plan. The plan shall, at a minimum, include the following elements:

a. Monitoring shall be conducted by a qualified ornithologist/ecologist to assess potential adverse impacts to migratory and resident bird species.

b. The monitoring design and schedule shall include a paired monitoring design (i.e., a night with lights immediately preceded or followed by a night without lights), and a monitoring frequency of once per week during any week when lights are operated during fall and spring migration periods for at least one year. If the monitoring results indicate that the one-year monitoring period was a typical bird migration year with a typical range of atmospheric conditions and the main sports field lights have resulted in no adverse impacts upon birds, no additional monitoring may be required. If the monitoring results indicate otherwise, monitoring shall continue for an additional year(s) until a year of monitoring under typical conditions occurs and the consulting ornithologist obtains enough data to assess potential adverse impacts to migratory and resident bird species.

c. The description of observational monitoring activities shall include tallying species and numbers of birds observed within a 200-foot sphere of the light standards and noting atmospheric conditions, bird behavior, and changes in bird behavior.

d. The monitoring plan shall specify a threshold for determining significant adverse impacts to migratory and resident bird species from field lights.

e. Seasonal migration reports (fall and spring) of monitoring results shall be submitted to the City Biologist. However, the consulting ornithologist shall immediately notify the City should an adverse bird event related to the approved field lights occur at any time during the course of monitoring. The monitoring plan shall also include a provision for submission of a

final monitoring report to the City Biologist and the Executive Director of the Coastal Commission at the end of the monitoring period.

The approved avian monitoring plan shall be implemented concurrent with the approved field lighting operations. If the monitoring results indicate that the approved field lighting results in significant adverse impacts upon birds, mitigation measures shall be developed that must be reviewed and approved by the City in consultation with the Executive Director of the Coastal Commission, and the approved mitigation measures must be implemented in order to ensure avoidance of the identified impacts.

4. The applicant shall be required to submit a written statement agreeing to the above restrictions. (Ord. 366 § 3(D), 2012; Ord. 303 § 3, 2007)

4.6.3. Fencing

A. Fencing or walls shall be prohibited within ESHA, except where necessary for public safety or habitat protection or restoration. Fencing or walls that do not permit the free passage of wildlife shall be prohibited in any wildlife corridor.

B. Development adjacent to, but not within ESHA, may include fencing, if necessary for security, that is limited to the area around the clustered development area.

4.6.4. Variances

A. Variances that modify buffers or ESHA protection standards shall not be granted except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

B. Modifications to required development standards that are not related to ESHA protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid or minimize impacts to ESHA.

C. Protection of ESHA and public access shall take priority over other development standards and where there is any conflict between general development standards and ESHA and/or public access protection, the standards that are most protective of ESHA and public access shall take precedence.

4.7. ECONOMICALLY VIABLE USE

Any coastal development permit application for a use other than one permitted in the ESHA overlay district, in which the uses permitted in this district would preclude construction of a residence on an undeveloped legal parcel, shall be subject to the provisions of this section. The uses of the property and the siting, design, and size of any development approved in ESHA or ESHA buffer, shall be limited, restricted, and/or conditioned to minimize impacts to ESHA on and adjacent to the property, to the maximum extent feasible. Where all feasible building sites are ESHA or ESHA buffer, the City may only permit development as specified below in

Sections 4.7.1 through 4.7.4 of the Malibu LIP in order to provide the owner with an economically viable use of the property. In no case shall the approved development exceed the following maximum standards.

4.7.1. Development Area

No development shall be allowed in wetlands unless it is a permitted use identified in Section 4.5.1 of the Malibu LIP. In other ESHA areas, the allowable development area (as defined in Chapter 2 of the Malibu LIP) 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 square feet for each additional acre over 40 acres in parcel size to a maximum of 43,560 square feet (one 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.

4.7.2. Fencing

Development permitted within coastal sage scrub or chaparral ESHA may include fencing, if necessary for security, that is limited to the area around the clustered development area. Fencing or walls shall be prohibited within the following ESHA types: riparian, bluff, canyons in Point Dume or coastal dunes, except where necessary for public safety or habitat protection or restoration.

4.7.3. Agricultural Uses

Development permitted within coastal sage scrub or chaparral ESHA may include limited crop, orchard or vineyard use 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 3:1 (horizontal: vertical), 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.

4.7.4. Confined Animal Facilities

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 fuel modification area required by the Los Angeles County Fire Department (Zones A, B, and/or C if required) for the structure(s) approved within the development area, only if such use is not located on slopes greater than 4:1 (horizontal: vertical), does not require additional grading other than minimal grading for foundations, is constructed of non-flammable materials, and does not result in any expansion to the required fuel modification area.

4.7.5. Consolidated Projects on Multiple Parcels

The allowable development area may be increased for projects that comprise two or more legal lots, if the existing lots are merged into one lot and one consolidated development area is provided with one access road or driveway. The allowable development area shall not exceed the total of the development areas allowed for each individual parcel, according to Section 4.7.1 of the Malibu LIP.

4.7.6. Supplemental Findings

A coastal development permit for a use other than those conditionally permitted in the ESHA overlay chapter may be approved or conditionally approved only if the Planning Commission makes the following supplemental findings in addition to the findings required in Section 13.9 of the Malibu LIP:

A. Application of the ESHA overlay Chapter would not allow construction of a residence on an undeveloped parcel.

B. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay and it complies with the provisions of Section 4.7 of the Malibu LIP. (Ord. 303 § 3, 2007)

4.8. MITIGATION

A. New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Residual adverse impacts to ESHA shall be fully mitigated, with priority given to onsite mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts onsite or where off-site mitigation is more protective in the context of a Natu-

ral Community Conservation Plan that is certified by the Coastal Commission as an amendment to the Malibu LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA. The permit shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the project.

B. When mitigation measures are required by Section 4.8 (A) of the Malibu LIP for impacts to ESHA, such measures including habitat restoration and/or enhancement shall be monitored for a period of no less than five years following completion. Specific mitigation objectives and performance standards shall be designed to measure the success of the restoration and/or enhancement. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the City annually and at the conclusion of the five-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met. The restoration will be considered successful after the success criteria have been met for a period of at least 2 years without any maintenance or remediation activities other than exotic species control. At the City's discretion, final performance monitoring will be conducted by an independent monitor supervised by the city biologist and paid for by the applicant. If success criteria are not met within 10 years, the applicant shall submit an amendment proposing alternative mitigation.

4.8.1. Habitat Impact Mitigation

All new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance, except as provided in Section 4.8.2 of the Malibu LIP for impacts to wetlands. The acreage of habitat impacted shall be determined based on the size of the approved development area, road/driveway area, required fuel modification on the project site, and required brush clearance, if any, on adjacent properties.

One of the following three Habitat Impact Mitigation methods shall be required: (1) habitat restoration; (2) habitat conservation; or (3) in-lieu fee for habitat conservation. The permit shall include conditions setting forth the requirements for habitat mitigation.

A. Habitat Restoration

1. This method includes mitigation of habitat impacts through the restoration of an area of degraded habitat equivalent to the affected habitat (based on the final approved project). Prior to issuance of the coastal development permit, the applicant shall identify the area of disturbed or degraded habitat that is proposed to be restored. The applicant shall also submit a habitat restoration plan, prepared by a qualified biologist or resource specialist, designed to restore the area in question for habitat function, species diversity, and vegetation cover. The restoration plan shall include provisions for monitoring the restoration site for a period of no less than five years, including criteria for determining restoration success, and mid-course corrective measures. The restoration will be considered successful after the success criteria have been met for a period of at least 2 years without any maintenance or remediation activities other than exotic species control. At the City's discretion, final performance monitoring will be conducted by an independent monitor supervised

by the city biologist and paid for by the applicant. If success criteria are not met within 10 years, the applicant shall submit an amendment proposing alternative mitigation. The City shall determine that the proposed restoration site is of equivalent type and acreage to the impacted habitat. The area of habitat to be restored shall be permanently preserved through the recordation of an open space deed restriction that applies to the entire restored area. The open space deed restriction shall be recorded prior to issuance of the coastal development permit. The habitat restoration shall be carried out prior to or concurrently with construction of the development project. In any case, the restoration project shall be complete prior to the issuance of certificates of occupancy for any structures approved in the coastal development permit.

2. Performance bonds shall be required prior to the issuance of the coastal development permit to guarantee the compliance with the restoration of the habitat mitigation area prior to occupancy clearance as follows: a) one equal to the value of the labor and materials and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the City may collect the security and complete the work on the property.

B. Habitat Conservation. This method includes the mitigation through the conservation of an area of intact habitat equivalent to the affected habitat (based on the final approved project). Prior to issuance of the coastal development permit, the applicant shall identify the parcel(s) containing the area of intact habitat of equivalent type and acreage to the impacted habitat that will be permanently preserved for habitat impact mitigation. The mitigation parcel shall be restricted from future development and permanently preserved through the recordation of an open space deed restriction or open space easement. The open space deed restriction shall be recorded prior to issuance of the coastal development permits. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact ESHA.

1. Implementation of Conservation Measures. The Planning Manager's determination that the habitat impact mitigation conditions of development on a coastal development permit have been met prior to the issuance of the permit through habitat conservation shall be based on submittal of all of the following (in addition to those requirements noted above):

   a. Evidence of the purchase of development rights on a donor site and recordation of a dedication to the City of Malibu of a permanent, irrevocable open space easement in favor of the City on the retired lot(s) that need not allow public use of the lot(s) but which conveys an interest in the lot(s) that insures that the future development on the lot(s) is prohibited and that restrictions can be enforced, the text of which has been approved pursuant to procedures in Coastal Permit Procedures Section 13.19 of the Malibu LIP (recorded legal documents); and

   b. Evidence that recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

Recordation of said easement on the donor site shall be permanent.

C. In-lieu Fee for Habitat Conservation

1. Prior to issuance of the coastal development permit, the applicant shall provide evidence or guarantee that compensatory mitigation, in the form of an in-lieu fee, has been paid to mitigate habitat impacts. The fee shall be based on the habitat type, the cost per acre to restore or create comparable habitat type, and the acreage of habitat affected (based on the final approved project).

2. The fee shall be paid into the Habitat Impact Mitigation Fund, administered by the Santa Monica Mountains Conservancy. The accumulated fees shall be used for the acquisition or permanent preservation of natural habitat areas within the Santa Monica Mountains Coastal Zone. Fees paid to mitigate impacts of development approved within the City may be used to acquire or preserve habitat anywhere within this area. Priority shall be given to acquisition or permanent preservation of properties containing areas designated ESHA, and to properties contiguous with existing parklands containing natural habitat. (Ord. 303 § 3, 2007)

4.8.2. Wetlands

A. Any new development that includes dike or fill development in wetlands for a use permitted under the Coastal Act and the LCP shall include mitigation for unavoidable impacts to wetland habitat. Wetland impact mitigation shall include, at a minimum, creation or substantial restoration of wetlands of the same type as the affected wetland or similar type. The acreage of wetland habitat impacted shall be determined based on the approved project.

B. Prior to issuance of the coastal development permit, the applicant shall identify an area of disturbed or degraded wetland habitat of equivalent type and acreage sufficient to provide mitigation of the wetland impacts according to the following ratios (number of acres of created or restored habitat required for each acre of wetland habitat impacted), as applicable:

Seasonal wetlands	3 to 1
Freshwater marsh	3 to 1
Riparian areas	3 to 1
Vernal pools	4 to 1
Saltmarsh	4 to 1

C. These mitigation ratios shall be minimum standards unless the applicant provides evidence establishing, and the City finds, that creation or restoration of a lesser area of wetlands will fully mitigate the adverse impacts of the dike or fill project. However, in no event will the mitigation ratio be less than 2:1 unless, prior to the development impacts, the wetland creation or restoration proposed as project mitigation is completed and is empirically demonstrated, based upon a report provided by the applicant from a qualified biologist or resource specialist, to meet performance criteria that establish that the created or restored wetlands are functionally equivalent or superior to the impacted wetlands.

D. Prior to issuance of the coastal development permit, the applicant shall submit wetland habitat creation, restoration, management, maintenance and monitoring plans for the proposed wetland mitigation area prepared by a qualified biologist and/or resource specialist. The plans shall provide a 100 foot restored buffer as measured from the upland limit of the wetland area, and at a minimum include ecological assessment of the mitigation site and surrounding ecology; goals, objectives and performance standards; procedures and technical specifications for wetland and upland planting; methodology and specifications for removal of exotic species; soil engineering and soil amendment criteria; identification of plant species and density; maintenance measures and schedules; temporary irrigation measures; restoration success criteria; measures to be implemented if success criteria are not met; and long-term adaptive management of the restored areas for a period of not less than 10 years. The City shall determine that the proposed restoration site is of equivalent type and acreage to the impacted wetland habitat.

E. The area of wetland habitat to be restored shall be restricted from future development and permanently preserved through the recordation of an open space deed restriction that applies to the entire restored area and buffer. The open space deed restriction shall be recorded prior to issuance of the coastal development permit. The habitat restoration shall be carried out prior to or concurrently with construction of the development project. In any case, the wetland restoration or creation project shall be complete prior to the issuance of certificates of occupancy for any structures approved in the coastal development permit.

F. Performance bonds shall be required prior to the issuance of the coastal development permit to guarantee compliance with the restoration of wetland habitat prior to occupancy clearance as follows: a) one equal to the value of the labor and materials and b) one equal to the value of the maintenance and monitoring for a period of 10 years for the restoration of wetland habitat. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the City may collect the security and complete the work on the property. The permit shall contain conditions that set forth the above requirements.

CHAPTER 5—NATIVE TREE PROTECTION ORDINANCE

5.1. PURPOSE

The purpose of the Native Tree Protection Chapter is to 1) recognize the importance of native oak, walnut, sycamore, alder and toyon trees in preventing the erosion of hillsides and stream banks, moderating water temperatures in streams through shading, contributing nutrients to streams, supporting a wide variety of wildlife species through the provision of food, nesting, and roosting cover, and contributing to the scenic quality of the community and 2) to provide for the protection and preservation of these native trees. (Ord. 303 § 3, 2007)

5.2. DESCRIPTION OF AREA SUBJECT TO ORDINANCE

The provisions of this Chapter shall apply to those areas containing one or more native oak (*Quercus* species), California Walnut (*Juglans californica*), Western Sycamore (*Platanus racemosa*), Alder (*Alnus rhombifolia*), or Toyon (*Heteromeles arbutifolia*) tree, that has at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade. (Ord. 303 § 3, 2007)

5.3. SUPPLEMENTAL APPLICATION REQUIREMENTS

Coastal development permit applications for development on sites containing oak, walnut, sycamore, alder, or toyon trees subject to this chapter shall include a tree protection plan, prepared by a qualified biologist or resource expert that provides:

A. An inventory and assessment of the health of native trees on the site by type, size (both trunk circumference and extent of canopy).

B. Photographs of the site showing location of all native trees.

C. A site map depicting the location of all such trees, including a scale drawing of trunk, canopy location and extent.

D. An analysis of all potential construction and post-construction impacts on the identified native trees.

E. Project alternatives designed to avoid removal of trees and to avoid and minimize impacts to protected trees.

F. Identification of trees proposed to be removed by the project.

G. Onsite mitigation measures necessary to minimize or mitigate residual impacts that cannot be avoided through project alternatives, including the provision of replacement trees.

H. A long-term maintenance and monitoring program designed to assure long-term protection and health for all native trees. (Ord. 303 § 3, 2007)

5.4. DEVELOPMENT STANDARDS

A. New development shall be sited and designed to preserve oak, walnut, sycamore, alder, and toyon, as identified by Section 5.2 of the Malibu LIP above, to the maximum extent feasible.

B. Removal of native trees subject to this chapter shall be prohibited except where no other feasible alternative exists. Mitigation shall be required for the removal of trees as described in section 5.5 of the Malibu LIP below.

C. Structures, including roads or driveways, shall be sited to prevent any encroachment into the protected zone and to provide an adequate buffer outside of the protected zone of individual native trees in order to allow for future growth, except where no other feasible alternative exists. Coastal development permits for development subject to this chapter shall include provisions or be conditioned to require that if approved encroachments result in the death or worsened health or vigor of the affected tree as a result of the proposed development, mitigation as described in Section 5.5 of the Malibu LIP below shall be required.

D. Drainage shall be directed away from all root zones of all native trees.

E. Project Construction Measures

1. Protective fencing shall be used around the outermost limits of the protected zones of the native trees within or adjacent to the construction area that may be disturbed during construction or grading activities. Before the commencement of any clearing, grading, or other construction activities, protective fencing shall be placed around each applicable tree. Fencing shall be maintained in place for the duration of all construction. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas, or within the protected zones of any on site native trees.

2. Any approved development, including grading or excavation, that encroaches into the protected zone of a native tree shall be constructed using only hand-held tools.

3. The applicants shall retain the services of a qualified independent biological consultant or arborist, approved by the Planning Manager to monitor native trees that are within or adjacent to the construction area. Public agencies may utilize their own staff who have the appropriate classification. If any breach in the protective fencing occurs, all work shall be suspended until the fence is repaired or replaced.

4. The permit shall include these requirements as conditions of approval. (Ord. 303 § 3, 2007)

5.5. MITIGATION

New development shall be sited and designed to avoid impacts to native trees to the maximum extent feasible. If there is no feasible alternative that can prevent tree removal or encroachment, then the alternative that would result in the fewest or least significant impacts shall be selected. Adverse impacts to native trees shall be fully mitigated, with priority given to on-site mitigation. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to sensitive resources. The permit shall include the mitigation requirements as conditions of approval.

5.5.1. Tree Replacement

A. Prior to the issuance of the coastal development permit that includes native tree removal or the loss or worsened health of native trees resulting from encroachment, the applicant shall submit a native tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size, planting specifications, and a monitoring program to ensure that the replacement planting program is successful, including performance standards for determining whether replacement trees are healthy and growing normally, and procedures for periodic monitoring and implementation of corrective measures in the event that the health of replacement trees declines.

B. Where the removal of native trees cannot be avoided or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of no less than 10 replacement trees for every 1 tree removed. The applicant shall plant seedlings, less than one year old on an area of the project site where there is suitable habitat. In the case of oak trees, the seedlings shall be grown from acorns collected in the area.

5.5.2. Alternative Mitigation

Where on-site mitigation through planting replacement trees is not feasible, mitigation shall be provided by one of the following methods:

a. Off-site mitigation shall be provided by planting no less than 10 replacement trees for every 1 tree removed, at a suitable site that is restricted from development or is public parkland. The applicant shall plant seedlings, less than one year old in an area where there is suitable habitat. In the case of oak trees, the seedlings shall be grown from acorns collected in the area; or

b. An in-lieu fee, shall be provided for the unavoidable impacts of the loss of native tree habitat. The fee shall be based on the type, size and age of the tree(s) removed.

The fee shall be paid into the Native Tree Impact Mitigation Fund, administered by the Santa Monica Mountains Conservancy. The accumulated fees shall be used for the restoration or creation of native tree woodland or savanna habitat areas within the Santa Monica Mountains Coastal Zone. Fees paid to mitigate impacts of development approved within the City may be used to restore native tree habitat anywhere within

this area. Priority shall be given to restoration or creation on properties containing areas designated ESHA, and to properties contiguous with existing parklands containing suitable native tree habitat.

5.6. MONITORING

The permit shall include the monitoring requirements set forth below as conditions of approval. The permit conditions shall specify the performance standards for on-site tree replacement.

5.6.1. Trees with Encroachments

Where approved development encroaches into the root zone of native trees, each affected tree shall be monitored annually for a period of not less than ten years. An annual monitoring report shall be submitted for review by the City for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of the proposed development, the applicant shall mitigate the impacts as required in section 5.5 of the Malibu LIP. If replacement plantings are required as mitigation, monitoring of the replacement trees shall be provided as required by Section 5.6.2 of the Malibu LIP.

5.6.2. Replacement Trees

Where the planting of replacement trees is required as mitigation, as required by Section 5.5 of the Malibu LIP above, each replacement tree shall be monitored annually for a period of not less than ten years. An annual monitoring report shall be submitted for the review and approval of the City for each of the ten years. The monitoring report shall identify the size and health of each replacement tree, comparing this information with the criteria provided in the native tree replacement planting program required in Section 5.5.1 (A) of the Malibu LIP for determining that replacement trees are healthy and growing normally. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the City annually and at the conclusion of the ten-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of ten years, the monitoring period shall be extended until the standards are met.

5.7. SUPPLEMENTAL FINDINGS.

A coastal development permit that includes the removal of one or more native tree(s) and/or the encroachment of development within the protected zone of one or more native tree(s) may be approved or conditionally approved only if the planning commission makes the following supplemental findings in addition to the findings required in Section 14.9 of the Malibu LIP:

A. The proposed project is sited and designed to minimize removal of or encroachment in the protected zone of native trees to the maximum extent feasible.

B. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.

C. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval.

CHAPTER 6—SCENIC, VISUAL, AND HILLSIDE RESOURCE PROTECTION ORDINANCE

6.1. PURPOSE AND INTENT

The purpose of the Scenic, Visual, and Hillside Resource Protection Chapter is to enhance and protect the scenic and visual qualities of coastal and mountain areas within the City of Malibu as a resource of public importance in accordance with the policies of the City's Local Coastal Plan (LCP) and the California Coastal Act. To implement the certified Land Use Plan (LUP), development standards, permit and application requirements, and other measures are provided to ensure that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. (Ord. 303 § 3, 2007)

6.2. APPLICABILITY

All Coastal Development Permit Applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road, or public viewing area shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified LCP which may apply. The hillside development standards of this chapter shall apply to properties where the project site includes any area of slope over 20 percent.

Where applicable, Coastal Development Permits shall be conditioned to require compliance with any policy, standard or provision contained herein.

6.3. STANDARDS FOR DETERMINATION

All applications for a Coastal Development Permit shall be subject to an onsite investigation in order to determine whether the proposed project has the potential to cause adverse impacts upon Scenic Areas from or along Scenic Roads or Public Viewing Areas. Where applicable, proposed structures shall be accurately indicated as to footprint, height and rooflines by story poles with flags. All proposed grading and the proposed location of access roads or driveways, including the centerline top of cut and toe of fill, shall be accurately indicated by stakes. Both poles and stakes shall remain in place for the duration of the approval process. The applicant may also be required to provide other visual aides such as photographs with superimposed structures. These requirements may be waived by the Planning Manager where it is determined through onsite investigation, evaluation of topographic maps or photographic evidence, or by other means that there is no possibility that the proposed development will create or contribute to adverse impacts upon Scenic Areas. (Ord. 303 § 3, 2007)

6.4. REQUIRED FINDINGS AND ANALYSIS

A. Written findings of fact, analysis and conclusions addressing scenic or visual resources must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon Scenic Areas from or along Scenic Roads and Public Viewing Areas. Such findings shall address the specific project impacts relative to the applicable development standards identified in Sec-

tion 6.5 of the Malibu LIP. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. Findings for approval or conditional approval shall conclude that the project as proposed, or as conditioned, conforms to the certified Local Coastal Program. A Coastal Development Permit for the proposed development shall only be granted if the City's decision-making body is able to find that:

1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

B. If found to be necessary to conform to the development standards contained in this chapter or any other applicable policy or standard of the certified LCP the proposed development shall be modified, by special condition, relative to height, size, design, or location on the site and may be required to incorporate landscaping or other methods to avoid or minimize the adverse scenic impacts of the proposed development. If special conditions of approval are required in order to bring the project into conformance with the certified LCP, the findings shall explain how the special condition(s) alleviate or mitigate the adverse effects which have been identified. Mitigation shall not be permitted to substitute for implementation of a feasible project alternative that would lessen or avoid impacts to scenic and visual resources.

6.5. DEVELOPMENT STANDARDS

A. Development Siting

1. New development shall be sited and designed to minimize adverse impacts on scenic areas from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

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.

3. Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.

4. New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.

B. Development Design

1. The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, pursuant to Section 13.27 of the Malibu LIP the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.

2. The length of on-site roads or driveways shall be minimized, except where a longer road or driveway would allow for an alternative building site location that would be more protective of visual resources or ESHA. Driveway slopes shall be designed to follow the natural topography. Driveways that are visible from a scenic highway, a beach, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.

3. Retaining walls visible from scenic highways, public viewing areas, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.

4. Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public view areas.

5. New development in scenic 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 extent feasible.

c. All windows shall be comprised of non-glare glass.

6. New water tanks in scenic areas visible from scenic roads or public viewing areas shall be designed to be partially below grade, where feasible. Water tanks shall incorporate colors that are compatible with the surrounding landscape and landscape screening to minimize visual impacts.

C. Hillside Development

1. Ridgelines

a. New development shall be sited and designed to prohibit construction of structures on a primary or secondary ridgeline. Any structures shall be located a minimum of 300 feet (measured horizontally) or 100 feet (measured vertically) from the top of a primary ridgeline, and shall maintain the roof or top of structure below a primary ridgeline when viewed from a public street or highway.

b. Where there are no feasible building site that can conform to the requirements of Section a, or where the only feasible building site would result in unavoidable adverse impacts to environmentally sensitive habitat areas, then a variance may be approved for a building site that does not conform to these standards, with design measures that minimize the visual resource impacts. Any structures approved on such a building site shall be limited to one-story in height.

2. Drainage Devices

Drainage devices, including but not limited to, terrace drains, bench drains, downdrains, should be placed in locations of least visibility on slopes. The side of a drain should be bermed to conceal it. Visible concrete drains should be colored to match the natural soils and screened with landscaping to be less visually intrusive.

3. Roads

a. In hillside areas, new development shall be located as close to existing roads as feasible to minimize the length of on-site roads except where a longer road would allow for an alternative building site location that would be more protective of visual resources or ESHA.

b. Driveway slopes shall be designed to follow the natural topography.

c. New development shall include no more than one driveway or access road to clustered structures.

d. The turnaround required to provide adequate access for emergency service vehicles shall be of a design that minimizes grading and landform alteration, such as a "hammerhead."

e. Private driveways to multiple project sites shall be shared where feasible.

4. Structures

a. Structures, terraces, and yards in hillside areas shall be designed to incorporate varying levels, or split-levels. Where feasible, retaining walls shall be incorporated into building foundations.

b. The taller elements of a structure shall be located near the center or uphill portion of the structure.

c. The roofline of hillside structures shall be of varying height to reduce the mass.

D. Bluff Development

1. In addition to the blufftop development setback requirements necessary to ensure geologic stability contained in Chapter 10 of the certified Malibu LCP, new development proposed on blufftops shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources may be in excess of, but no less than, the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure.

2. No permanent structures shall be permitted on a bluff face, except for engineered stairways to accessways to provide public beach access. Such structures shall be designed and constructed to not contribute to further erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

3. Landscaping permitted on a bluff face or hillside for restoration, revegetation or erosion control purposes shall consist of native, drought-tolerant plant species endemic to the area.

E. Ocean Views. New development on parcels located on the ocean side of public roads, including but not limited to, Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, Cliffside Drive shall protect public ocean views.

1. Where the topography of the project site descends from the roadway, new development shall be sited and designed to preserve bluewater ocean views over the approved structures by incorporating the following measures.

a. Structures shall extend no higher than the road grade adjacent to the project site, where feasible.

b. Structures shall not exceed one story in height, as necessary, to ensure bluewater views are maintained over the entire site.

c. Fences shall be located away from the road edge and fences or walls shall be no higher than adjacent road grade, with the exception of fences that are composed of visually permeable design and materials.

d. The project site shall be landscaped with native vegetation types that have a maximum growth height at maturity and are located such that landscaping will not extend above road grade.

2. Where the topography of the project site does not permit the siting or design of a structure that is located below road grade, new development shall provide an ocean view corridor on the project site by incorporating the following measures.

a. Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.

b. The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor, except on lots with a width of 50 feet or less. Lots with a lineal frontage of 50 feet or less shall provide 20% of the lot width as view corridor; however, the view corridor may be split to provide a contiguous view corridor of not less than 10% of the lot width on each side. For lots greater than 50 feet in width, the view corridor may be split to provide a contiguous view corridor of not less than 10 percent of the lot width on each side, provided that each foot of lot width greater than 50 feet is added to the view corridor. On irregularly shaped lots, the Planning Manager shall determine which side yards shall constitute the view corridor in order to maximize public views. Sites shall not be designed so as to provide for parking within these designated view corridors.

c. No portion of any structure shall extend into the view corridor above the elevation of the adjacent street.

d. Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.

e. In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 80 percent maximum of the total lineal frontage of the overall project site and that the remaining 20 percent is maintained as one contiguous view corridor.

f. The requirements of Section 6.5(E)(2) may be satisfied by providing an off-site view corridor that preserves and enhances coastal views from Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive. The requirements of Section 6.5(E)(2) may be deemed satisfied by an off-site view corridor if the decision-making body makes the findings required in Section 6.5(E)(2)(f)(i) through (vi) and the view parcel has been dedicated in accordance with Section 6.5(E)(2)(g).

i. The proposed off-site view corridor parcel (the "view parcel") is a beachfront parcel that affords public views of the ocean and will provide public visual resource benefits that are greater than what would otherwise be provided through an on-site view corridor.

ii. The view parcel is located adjacent to at least one publicly owned beachfront parcel that also affords ocean views, which parcel was publicly owned as of the effective date of the Local Implementation Plan amendment that added Section 6.5(E)(2)(f), and, to the extent feasible, be located in the same geographic portion of the City as the project site.

iii. The off-site view corridor shall be provided across the entirety of the view parcel and shall be at least 25% wider than the view corridor(s) that otherwise would be required on the project site.

iv. There are no geotechnical hazards or other constraints present on or near the view parcel that could otherwise render the view parcel unsafe or unsuitable for the development of a habitable structure or other primary use consistent with the underlying zoning regulations. If the decision-making body finds that the proposed view corridor parcel is not suitable for the development of a habitable structure or other primary use due to the presence of geotechnical hazards or other constraints, the proposed view corridor parcel shall be rejected as inadequate and inconsistent with the intent of this provision.

v. Public viewing, public beach access and accessways shall be permitted uses on the dedicated view parcel. Any physical development of facilities or structures to enhance public views or public access shall conform to the applicable standards, provisions, and requirements of the Malibu LCP.

vi. If deemed necessary by the decision-making body to satisfy the findings of this subsection, the applicant may, in addition to providing an off-site view corridor consistent with the above requirements, undertake or fund all or a portion of an off-site measure, project, or program that provides additional public visual resource benefits.

g. The substitution of an off-site view parcel for a required on-site view corridor shall be effectuated by the recordation of an open space deed restriction and transfer of the view parcel in fee title to a public entity, including the following requirements and restrictions:

i. Recordation with the Los Angeles County Recorder of an open space deed restriction that applies to the entirety of the view parcel(s), that ensures that any future development on the lot(s) is limited to only those improvements necessary to provide for public view enhancement or public beach access such as benches and visually permeable fencing, maintenance of roads, public accessways, and utilities consistent with existing easements; and shoreline protection if necessary to protect existing development and that restrictions can be enforced, the text of which has been approved pursuant to procedures in Section 13.19 of the Malibu LIP (recorded legal documents); and

ii. Evidence that fee title to the donor site has been successfully transferred to a public entity after the recordation of a deed restriction listed in the prior paragraph and that the document effectuating the conveyance has been recorded with the Los Angeles County Recorder.

3. Except for replacement of structures destroyed by disaster in accordance with Section 13.4.6 of the Malibu LIP, redevelopment of sites involving substantial remodels (the replacement of 50 percent or more of the structure) or demolition and reconstruction where existing landscaping or development blocks or obscures public views of the ocean or other scenic areas, the existing landscaping or development shall be removed and where appropriate replaced with landscaping and development that is sited and designed to provide maximum views, as required by Section 6.5(E)(1) or Section 6.5(E)(2) of the Malibu LIP, as applicable.

4. New development on properties visible from and inland of Pacific Coast Highway shall be sited and designed to protect public views of the ridgelines and natural features of the Santa Monica Mountains through measures including, but not limited to, restricting the building maximum size, reducing maximum height limits, clustering development, incorporating landscape elements, and where appropriate, berming.

5. New commercial development within the Civic Center shall be sited and designed to not obstruct public views of the ridgelines and natural features of the Santa Monica Mountains through measures such as clustering development, and restricting height and bulk of structures.

6. New subdivisions of beachfront residential parcels, where structures cannot be sited or designed below road grade, shall ensure that no less than 20% of the lineal frontage of each newly created parcel shall be maintained as one contiguous public view corridor (even if the resultant lots are 50 feet or less in width). The view corridors of the newly created parcels shall be contiguous to the maximum extent feasible in order to minimize impacts to public views of the ocean. This requirement shall be a condition of permit approval for subdivision of a beachfront property.

F. Public Works. Public works projects along scenic roads that include hardscape elements such as retaining walls, cut-off walls, abutments, bridges, or culverts shall incorporate veneers, texturing, and colors that blend with the surrounding earth materials or landscape. The design of new bridges on scenic

roads shall be compatible with the rural character of the Santa Monica Mountains and designed to protect public scenic views to the maximum feasible extent.

G. Lighting. Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts, sports fields, or other private recreational facilities in scenic areas designated for residential use shall be prohibited. Permitted lighting shall conform to the following standards:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Planning Manager.

2. Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.

3. The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

4. A light, not to exceed 60 watts or the equivalent, at the entrance to the (identify nonresidential accessory structures).

5. No lighting around the perimeter of the site, no lighting for sports courts or other private recreational facilities, and no lighting for aesthetic purposes is allowed.

6. Lighting of the main sports field at Malibu High School may only be permitted if it complies with the following standards:

   a. Lighting shall be minimized, directed downward, and shielded using the best available visor technology and pole height and design that minimizes light spill, sky glow, and glare impacts to public views and wildlife to the maximum extent feasible.

   b. Lighting may only occur for a maximum of three days in any calendar week and must be limited to the following time restrictions:

      i. During Pacific Standard Time (defined as of 2011 to be the first Sunday in November to the second Sunday in March), the lights may be illuminated no later than 7:30 p.m. except as indicated below.

      ii. From each September 1st through May 31st period, inclusive, the lights may only be illuminated after 7:30 p.m. up to 18 times, and then (A) only until 10:30 p.m., (B)

never on consecutive nights, and (C) on no more than two nights in any given calendar week.

iii. The lights may not be illuminated at any time between June 1st and August 31st, inclusive, of any year.

7. Prior to issuance of Coastal Development Permit, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions. Public agencies shall not be required to record a deed restriction but may be required to submit a written statement agreeing to any applicable restrictions above.

H. Pacific Coast Highway

1. The Pacific Coast Highway corridor shall be protected as a scenic highway and significant viewshed by requiring that development conform to the following standards.

a. Landscape improvements, including median plantings, may be permitted along Pacific Coast Highway. Any proposed landscaping shall be comprised primarily of native and drought tolerant plant species. Landscaping shall be designed and maintained to be subordinate to the character of the area, and not block ocean or mountain views at maturity. Any such improvements permitted west of Malibu Canyon Road shall be required to maintain the rural character of that area.

b. New commercial development that includes a parking lot visible from Pacific Coast Highway shall include landscaping and/or berming to screen the view, so long as such measures do not obscure or block views of the ocean.

c. Any telecommunications facilities approved along Pacific Coast Highway shall place support facilities underground, where feasible. New transmission lines shall be sited and designed to be located underground, except where it would present or contribute to geologic hazards. Existing transmission lines should be relocated underground when they are replaced or when funding for undergrounding is available. (Ord. 366 § 3(E), 2012; Ord. 364 § 4(C), 2012; Ord. 362 § 3(A), 2011; Ord. 303 § 3, 2007)

6.6. FUTURE DEVELOPMENT

Where necessary to insure the protection of scenic and visual resources in accordance with the policies and standards provided herein, a Coastal Development Permit shall be conditioned to require the recordation of a deed restriction or other legal document which provides that any or all future development beyond that authorized by the CDP, including that which would ordinarily be exempt from a CDP, shall be subject to a new CDP or permit amendment.

6.7. APPLICATION SUBMITTAL REQUIREMENTS

A. Applications for new development in scenic areas visible from public viewing areas, public trails, beaches, or scenic roads shall include a visual analysis that includes:

1. Grading plan, if any grading is proposed.

2. Cross sections of the project site showing the proposed grading and structures.

3. Line of sight analysis showing the view of the project site from public viewing areas.

4. Photos of the project site from public viewing areas and/or scenic roads, with story poles placed on the site to indicate the proposed location and maximum height of all structures and stakes placed on the site to indicate the extent of all proposed grading.

5. An analysis of the potential impacts of the proposed development on the identified public views.

6. Project alternatives designed to avoid and minimize impacts to visual resources.

7. Mitigation measures necessary to minimize or mitigate residual impacts that cannot be avoided through project siting and design alternatives.

B. Applications for land divisions shall include a grading plan, drainage/polluted runoff control plan, landscape plan, conceptual fuel modification plan (based on anticipated location of future structures), line of sight analysis showing the view of the project site from public viewing areas, and landscaping plans for any proposed slopes. These plans shall depict the proposed building pad or building area (if future structures will be built to the slope) and access road/driveway to each proposed parcel. If deemed necessary the visual analysis shall include the placement of story poles and stakes to indicate the location and extent of building pads and grading necessary to develop the site.

6.8. EXCEPTIONS

The following types of development shall comply with the policies and standards provided herein to the maximum feasible extent but shall not be prohibited by application of said policies or standards:

A. Public Beach or trailhead parking;

B. Public Beach or Park restrooms or minor maintenance buildings;

C. Public accessways and trails;

D. Signs indicating location of or directions to public beach or trail access;

E. Temporary events where upon conclusion of said event the site shall be left in the same physical condition as existed prior to the event;

F. Siting development in only feasible location to avoid Environmentally Sensitive Habitat Areas, existing public accessways or trails or areas of historic public use.

CHAPTER 7—TRANSFER OF DEVELOPMENT CREDITS

7.1. PURPOSE AND INTENT

The purpose of this Chapter is to set forth procedures for implementing a program to mitigate the cumulative impacts of development given the large numbers of undeveloped parcels, the natural resource constraints and the limited availability of urban services in the Santa Monica Mountains Area coastal zone. Buildout of existing lots will have cumulative impacts on environmentally sensitive habitat, scenic and visual resources, natural landforms and potential future recreational use of the mountains and beaches. Development on new parcels will also cause an increase in risks to life and property due to high geologic, flood and fire hazards common to the region and would increase the amount of erosion due to grading for roads, utilities and building pads.

The intent of this Chapter is to ensure that density increased through new land divisions and new multi family unit development in the City, excluding affordable housing units, will not be approved unless Transfer of Development Credits are purchased to retire development rights on existing donor lots in the Santa Monica Mountains Area. A lot from which development rights have been transferred is "retired", and loses its building potential through recordation of a permanent open space easement.

7.2. APPLICABILITY

A. The regulations requiring TDCs apply to:

1. Any action to authorize a coastal development permit for a parcel map, tract map, or certificate of compliance approved under LIP Section 15.3C or 15.3D in the City of Malibu; and;

2. Any action to authorize a coastal development permit for Multi Family Residential Development in the MF or MFBF zones or PD including land divisions associated with the multifamily residential development in the certified LCP except for units constructed for lower income households (defined in Health and Safety Code section 50079.5), very low income households (defined in Health and Safety Code section 50105), extremely low income households (defined in Health and Safety Code section 50106) or qualifying residents or senior citizens (defined in Civil Code section 51.3(b)(1)).

B. The responsibility for initiation of a transfer of a development credit is placed on the applicant for a coastal development permit for a residential land division or multi-family development.

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. (Ord. 303 § 3, 2007)

7.3. DEFINITIONS

Definitions provided in this chapter are specifically adopted to implement the City of Malibu LCP TDC Program. In addition to the other definitions made elsewhere in the LCP Implementing Ordinances, the following terms are defined for the purposes of this chapter:

"Buildable Parcel" is any parcel which, regardless of size, contains a site which can be accessed and upon which at least one single family residence can be constructed in conformity with all of the City's LCP policies and regulations and City health and safety codes in effect at time of application for a development or building permit.

"Credit Area" is the area of one or more legal donor sites that is used to determine the number of development credits to be transferred.

"Development Rights" means the rights that are commonly associated with real property ownership. Development rights, subject to local, state, and federal regulations, provide the legal basis for property development.

"Donor Area" is a designated area from which density could be removed by extinguishing development potential of existing, constrained lots.

"Donor Lot" is the same as Donor Site.

"Donor Site" is a buildable parcel within the Santa Monica Mountains Area that has been designated as a parcel on which development rights may be purchased in order to generate transferable development credits (TDCs).

"Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

"Receiver Area" means residentially zoned lands within the City of Malibu coastal zone.

"Receiver Site" is a residentially zoned parcel in the City where additional density can be accommodated through subdivision or new multifamily development consistent with policies of the LCP.

"Residential building site" is a location within a buildable parcel upon which one single-family residence can be constructed consistent with all policies of the certified LCP.

"Santa Monica Mountains Area" means the Santa Monica Mountains within the coastal zones of the City of Malibu and the County of Los Angeles.

"Significant Watershed" means large, relatively undisturbed natural drainage basins that contain exceptional riparian and oak woodlands and provide habitat for various declining, restricted rare or endangered species.

"Transfer" is the set of actions which result in an increase in density through authorization of subdivisions or multiunit development on one parcel by reducing the allowable development on another parcel-"donor lot"-by a like amount. In a typical transaction, a person wishing to subdivide a parcel will contract to purchase development rights from the owner of a qualifying donor lot to their mutual financial advantage. The transfer of development is officially validated at the time the applicant for a coastal development permit to subdivide or develop multifamily units is issued a coastal development permit and the donor lot(s) has been encumbered by documents permanently restricting its development potential. A parcel from which development credits have been transferred may be retained by the owner or transferred subject to any restrictions encumbering the parcel.

"Transferable Development Credit (TDC)" is the right to transfer development on a residential site from a donor site to a receiver site where new lots or units are proposed to be created by subdivisions or multifamily unit development within the Malibu Santa Monica Mountains coastal zone of the City of Malibu and Los Angeles County.

7.4. OBJECTIVES OF THE TRANSFER OF DEVELOPMENT CREDIT REGULATIONS

The Malibu Transfer of Development Credit program is intended to carry out the following objectives:

A. Implement regulations that establish a voluntary program to transfer development rights for owners of property proposed for subdivision or multi-family developments and for owners of small lots in small lot subdivisions or lots with significant resource constraints.

B. Implement regulations that will mitigate cumulative impacts by ensuring that no net increase of density will result through creation of new buildable parcels or new multifamily units by retiring development rights on other buildable parcels.

C. Establish regulations to allow the transfer of development credit from buildable parcels with resource constraints in the Santa Monica Mountains Area coastal zone where development would result in individual and cumulative impacts inconsistent with Coastal Act policies, to other sites within the City of Malibu where subdivision and multifamily unit development can occur consistent with policies of the certified LCP.

D. To mitigate the cumulative impacts of the development of existing buildable parcels in the Santa Monica Mountains Area on natural resources, coastal access roads, recreational facilities and beaches by ensuring that even if land divisions or multifamily units are approved consistent with the certified LCP, that the overall number of lots and multi family units in the Santa Monica Mountains Area will not increase.

E. To create an incentive program for owners of donor lots with significant resource constraints to not develop the parcel.

7.5. TDCS REQUIRED-CONDITIONS

A. Any coastal development permit authorizing a land division or multifamily residential development in the receiver area as required by other Chapters of the LCP Implementing Ordinances shall be conditioned on submitting evidence that TDC Credits consistent with Sections 7.7 and 7.8 of the Malibu LIP (Procedures) have been obtained prior to issuance of the coastal development permit. The burden for satisfying the procedures herein is on the applicant for the applicable coastal development permit.

B. Purchase of development rights and recordation of legal documents to retire lots in designated donor areas as part of implementing the TDC requirements does not require a coastal development permit.

7.6. DESIGNATION OF RECEIVER AREAS

The areas within the City of Malibu where new development lots may be created through land divisions in any residential zoning category or multifamily projects in the MF Residential and MFBF Multifamily beachfront Residential Zones are designated as receiver areas.

7.7. DESIGNATION OF DONOR AREAS

The following areas are designated as donor areas where applicants with coastal development permits authorized subject to conditions to provide TDCs prior to issuance of the permit shall seek TDCs through purchase of development rights to retire lots:

A. Existing lots within the following small lot subdivisions within the Los Angeles County coastal zone:

1. Topanga Oaks
2. Malibu Vista
3. Malibu Bowl
4. Topanga Woods
5. Monte Nido
6. Vera Canyon
7. Fernwood

B. Existing lots within the following small lot subdivisions within Los Angeles County where the lots contain environmentally sensitive habitat area and are contiguous to each other or to other retired lots:

1. Malibu Lake
2. Malibu Mar Vista
3. Las Flores Heights
4. El Nido

C. Parcels not located in small lot subdivisions identified in Section 7.6 (A) or (B) of the Malibu LIP and identified as consisting predominately of environmentally sensitive habitat in the certified LCP;

D. Parcels located within the following Significant Watersheds in the Santa Monica Mountains Area as defined herein:

1. Arroyo Sequit
2. Solstice Canyon
3. Cold Creek Canyon
4. Tuna Canyon
5. Zuma Canyon
6. Malibu Canyon
7. Corral Canyon
8. Trancas Canyon

E. Parcels immediately adjacent to existing public parkland in the Santa Monica Mountains Area where development cannot be sited to avoid encroachment of fire abatement requirements onto public parklands.

F. Parcels in wildlife corridors as designated in the Santa Monica Mountains Area coastal zone.

7.8. PROCEDURES TO TRANSFER DEVELOPMENT CREDITS

7.8.1 Donor Credits Required

Any coastal development permit subject to this Chapter shall be conditioned to transfer the following credits:

A. Land Divisions, applicant shall be required to retire sufficient donor lots to provide one (1) TDC credit for each newly subdivided lot authorized.

B. Multi-Family Projects, excluding affordable housing projects pursuant to Section 7.2(A)(2) of the Malibu LIP, that exceed 2500 square feet of gross structural area (GSA), applicant shall be required to retire sufficient donor lots to provide one (1) TDC credit for each new unit authorized, minus the number of existing parcels within the project site (e.g. a six-unit project to be sited on two existing parcels requires 4 development credits).

C. Multi-Family Projects, excluding affordable housing projects pursuant to Section 7.2(A)(2) of the Malibu LIP, of less than 2500 square feet of gross structural area (GSA), applicant shall be required to retire sufficient donor lots to provide TDC credits proportionate to the size of the units at a rate of 1 development credit for each 2500 sq. ft. of GSA.

7.8.2 Donor Credits Calculated

The Planning Manager, as part of condition compliance on any coastal development permit subject to this Chapter, shall generate the amount of credits for each donor site submitted by the applicant according to the following procedures:

A. Evidence must be submitted that all lots proposed for retirement in order to qualify for TDC credits are legally created buildable lots.

B. The number of development credits to be transferred shall be determined by using the following formula: Credit Area = (A/5) X (50-S)/35, where A= the area of the small lot in square feet and S= the average slope of the small lot in percent and all slope calculations are based on natural (not graded) conditions.

C. In small lot subdivisions Section 7.7 (B) of the Malibu LIP above, lots shall be qualified for TDCs only if all of the following criteria are met:

   1. A minimum of three lots are retired; and

   2. Lots are adjacent to each other or to other retired lots; and

   3. All lots to be retired have a significant amount of habitat designated as environmentally sensitive habitat area.

D. In all small lot subdivisions as defined in Section 7.7 (A) and (B) of the Malibu LIP above, lots shall be qualified according to the following procedures:

   1. One (1) Development Credit for:

      a. Retiring one or more small lots which are served by existing road and water mains and are not located in an area of landslide or other geologic hazard with a sum total credit area of at least 1,500 square feet as determined by the Credit Area formula (see Section 7.8.2 of the Malibu LIP); or

      b. Retiring a total 1,500 square foot credit area that may be calculated on the basis of 500 square feet of credit area per small lot, provided that each small lot exceeds 4,000 square feet in area and is served by existing roads or water mains within 300 feet of the property and is not located in an area of landslide or other geologic hazard; or

      c. One (1) Development Credit for retiring any combination of one or more acres of small lots, regardless of the current availability of road and water service to such lots.

d. Additional credit is not given for lots in small lot subdivisions due to the presence of environmentally sensitive habitat area.

2. In the Monte Nido small lot subdivision, One (1) Development Credit for retiring any two parcels that are contiguous and have road access and water availability.

3. In the Monte Nido small lot subdivision, One (1) Development Credit for retiring any five parcels which are not contiguous or do not have road access or water availability.

E. Lots outside of small lot subdivisions in A and B above but adjacent to Parklands, where proposed building sites are within 200 feet of public parkland such that fuel management will extend onto public lands, defined as lands available for public use and controlled by a public park agency, one (1) Development Credit per lot, up to 20 acres. For lots exceeding 20 acres, one (1) Development Credit for each 20 acres; fractional TDCs can be allowed.

F. For lots within a significant watershed, designated wildlife corridor, or identified as having environmentally sensitive habitat area habitat in Sections 7.7 (C), (D), or (F) of the Malibu LIP, one (1) Development Credit for each parcel, up to 20 acres. For lots over 20 acres, one (1) Development Credit for each 20 acres; fractional TDCs can be allowed. (Ord. 303 § 3, 2007)

7.8.3 Donor Credits Implemented

The right to a TDC credit shall be granted by the Planning Manager's determination that the TDC conditions of development on a coastal development permit have been met prior to the issuance of the permit by submittal of evidence that all of the following steps have been completed for either one of the following two methods. Subsequent to completion of either one of the following two methods, the City shall provide the Executive Director of the Coastal Commission with copies of the required recorded documents to ensure coordination within the region-wide TDC program.

A. Open Space Easement Dedication and the Merging or Recombination of the Retired Lot(s) with One or More Adjacent Developed or Buildable Parcel(s)

1. Evidence of the purchase of development rights on one or more donor sites that have not been previously retired through the City's or Coastal Commission's TDC program (herein the terms "donor site" and "retired lot" are used interchangeably) and recordation with the Los Angeles County Recorder of a valid dedication to a public entity of a permanent, irrevocable open space easement in favor of the People of the State of California over the entirety of the retired lot(s) that conveys an interest in the lot(s) that insures that future development on the lot(s) is prohibited and that restrictions can be enforced, the text of which has been approved pursuant to procedures in Section 13.19 of the Malibu LIP (recorded legal documents). Recordation of said easement on the donor site shall be permanent; and

2. Evidence of recordation with the Los Angeles County Recorder of a voluntary merger or of a deed restriction reflecting that the retired lots used to generate the credit(s) are combined with one

or more adjacent lot(s) through a process outlined in Section 7.8.4 of the Malibu LIP, where one of the combined lots has no recorded restrictions on its development rights.

B. Open Space Deed Restriction and Transfer in Fee Title to a Public Entity

1. Evidence of the purchase of development rights on one or more donor sites that have not been previously retired through the City's or Coastal Commission's TDC program and recordation with the Los Angeles County Recorder of an open space deed restriction that applies to the entirety of the donor site(s), that insures that the future development on the lot(s) is prohibited and that restrictions can be enforced, the text of which has been approved pursuant to procedures in Section 13.19 of the Malibu LIP (recorded legal documents); and

2. Evidence that fee title to the donor site has been successfully transferred to a public entity after the recordation of the deed restriction listed in the prior paragraph and that the document effectuating the conveyance has been recorded with the Los Angeles County Recorder. (Ord. 355 § 3, 2011)

7.8.4 Combining of Donor Lots

A. Upon recordation of an easement pursuant to Section 7.8.3(A)(1) of the Malibu LIP, a retired parcel that has qualified to be used for TDC credits shall be combined with an adjacent already developed or buildable parcel(s), or with multiple contiguous parcels, at least one of which has no recorded restrictions on its development rights and all of which are in the same tax rate area and in common ownership. The retired lot and adjacent parcel(s) shall be recombined and unified, and shall henceforth be considered and treated as a single parcel of land for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, lease, development, taxation or encumbrance.

B. The mechanism used to accomplish the combination shall make clear that the single parcel created herein shall not be divided and none of the original parcels shall be alienated from each other or from any portion of the combined and unified parcel hereby created.

C. A deed restriction shall be recorded reflecting restrictions of this section.

D. The combining of lots shall occur through one of the following mechanisms:

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

2. Recorded Declaration of Restrictions that includes a legal description and graphic depiction of the parcels being recombined; states that it runs with the land, binding all successors and assigns; and is recorded free of prior liens, including tax liens.

E. The permittee shall provide evidence that a copy of the recorded merger or deed restriction has been provided to the Los Angeles County Tax Assessor with a written request that the assessor's office: (1)

revise its records and maps to reflect the combination of the parcels, including assigning a new, single assessor's parcel number (APN) for the unified parcel, and (2) send the City and Coastal Commission notice when it has done so, indicating the new, single APN.

F. The permittee shall provide evidence that the combined parcels appear on a preliminary report (regarding title) as a single parcel (which may require the property owner re-conveying the combined property to him/her/itself, presumably via a quitclaim deed).

G. Any amendments to the Local Implementation Plan authorized by Ordinance No. 340 are hereby suspended by the amendments set forth in subparagraphs (A) and (B) of this section. (Ord. 355 § 3, 2011)

7.9. REQUIRED FINDINGS

To authorize a coastal development permit for land division or multi-family residential development pursuant to requirements of this Chapter, the approving authority under Chapter 13 of the Malibu LIP must make the following written findings:

A. The requirements for Transfer of Development Credits is necessary to avoid cumulative impacts and find the project consistent with the policies of the certified Malibu LCP;

B. The new residential building sites and/or units made possible by the purchase of TDC can be developed consistent with the policies of the certified Malibu LCP without the need for a variance or other modifications to LCP standards;

C. Open Space easements executed will assure that lot(s) to be retired will remain in permanent open space and that no development will occur on these sites.

7.10. RECORD OF TDCs

The Planning Manager shall maintain a record of all those developments within the coastal zone that have been authorized pursuant to requirements for obtaining TDCs pursuant to this Chapter. The Record of TDCs shall include the following:

1. Permit number;

2. Name of the applicant;

3. Location of the project;

4. Brief project description;

5. Number of TDC credits required;

6. Number of lots retired through the TDC transaction;

7. Location of lots retired through the TDC transaction, including assessor parcel number(s) and copy of parcel map showing location of open space easements.

This record shall be available for review by members of the public and representatives of Los Angeles County and the California Coastal Commission. (Ord. 303 § 3, 2007)

CHAPTER 8—GRADING ORDINANCE

8.1. PURPOSE

The purpose of the Grading Chapter is to ensure that new development minimizes the visual and resource impacts of grading and landform alteration. (Ord. 303 § 3, 2007)

8.2. APPLICABILITY

All development requiring a Coastal Development Permit that includes grading shall be governed by the policies, standards, and provisions of this chapter in addition to any other policies or standards elsewhere in the certified Malibu LCP that may apply.

8.3. DEVELOPMENT STANDARDS

A. Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum.

B. Maximum Quantity of Grading. Notwithstanding any other provisions of the Malibu LIP, grading per lot of single-family residential development, per acre of multi-family residential development, per acre of commercial development, or per acre of institutional development (total cut and fill) is limited to 1,000 cubic yards as follows:

1. In conjunction with any grading, so that the maximum is not greater than 1,000 cubic yards (exclusive of remedial grading) cut and fill may be allocated as follows:

    a. Balanced cut and fill up to 1,000 cubic yards; or

    b. Export of no more than 1,000 cubic yards; or

    c. Import of no more than 500 cubic yards, where additional grading on site does not exceed 500 cubic yards in conjunction with any landform alteration so that the maximum is no greater than 1,000 cubic yards; or

    d. Any combination of the above that does not exceed 1,000 cubic yards.

2. The export of cut material may be required to preserve the natural topography of the project site. Cut material may only be exported to an appropriate landfill or a site permitted to accept material.

C. Maximum Height of Cuts and Fills with Retaining Walls. 6 feet in height for any one wall, or 12 feet for any combination of walls, where a minimum 3-foot separation exists between walls, except single cuts up to 12 feet in height which are an integral part of the structure are permitted. Retaining walls shall be designed with smooth, continuous lines that conform to the topography.

D. Maximum Grade Cut Or Fill. 3:1 for areas created for development of structures and open yard areas. Transition slopes may not exceed 2:1 and shall not exceed the maximum height permitted for cuts or fills.

E. Design of Grading. Grading shall be designed to minimize the alteration of landforms by incorporating measures including, but not limited to the following.

1. Conforming to the natural topography. Contour grading shall be used to reflect original landform and result in minimum disturbance to natural terrain.

2. Avoiding a manufactured appearance of slopes by creating smooth flowing contours of varying gradients with slopes of 2:1 or less. Avoid sharp cuts and fills as well as long linear slopes that have uniform grade.

3. Essential grading shall complement the natural landforms. At the intersection of a manufactured cut or fill slope and a natural slope, a gradual transition or rounding of contours shall be provided.

4. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs to notch development into hillsides, where feasible.

5. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.

F. Grading Plans. Grading plans shall be submitted for approval with building plans. No grading permits shall be issued until a building permit is approved.

G. Remedial Grading. Notwithstanding the limitations of this subsection, the Manager may permit remedial grading pursuant to Site Plan Review, Section 13.27 of the Malibu LIP. For the purposes of this Section, remedial grading is defined as grading necessary to mitigate an environmental hazard as recommended by a geotechnical report approved by City Geotechnical staff. No such remedial grading will be allowed when it could be avoided by changing the position or location of the proposed development. Remedial grading that would result in substantial landform alteration shall not be permitted where project alternatives, including but not limited to, deepened foundations, caissons, soldier piles could be utilized to provide equivalent geologic stability.

H. Grading for the Construction of Best Management Practices. Notwithstanding the limitations of this subsection, the City may approve grading not to exceed 500 cubic yards total for the purpose of implementing Best Management Practices (BMPs) designed to minimize or prevent erosion, sedimentation and polluted runoff, such as detention basins, infiltration basins and bioswales.

I. Exceptions. Excavation for foundations and other understructure excavation and incremental excavation for basements and safety purposes shall be excluded from grading limitations.

J. Grading Operations. The area of soil to be disturbed at any one time and the duration of its exposure shall be limited. Erosion and sediment control measures shall be installed as soon as possible following the disturbance of the soils. Construction equipment shall be limited to the actual area to be disturbed according to the approved development plans. (Ord. 449 § 4, 2019; Ord. 373 § 3, 2013)

8.4. SEASONAL RESTRICTIONS ON GRADING

A. Earthmoving during the rainy season (extending from November 1 to March 31) shall be prohibited for development that is included in one or both of the following categories, unless permitted pursuant to the provisions of Paragraphs C or D, below.

1. The project site is within an Environmentally Sensitive Habitat Area or an ESHA buffer that drains into an Environmentally Sensitive Habitat Area.

2. The project includes grading on slopes greater than 4:1.

B. Grading operations approved for development included in one of these categories shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season.

C. If grading operations are not completed before the rainy season begins due to unforeseen circumstances or delays, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31.

1. Where grading operations have not been completed before the rainy season begins, the Planning Manager may permit grading to continue if he determines that

a. completion of grading would be more protective of resources, and

b. that Best Management Practices (BMPs), both structural and non-structural, designed to minimize or prevent erosion, sedimentation and polluted runoff are being implemented to a degree that would prevent significant water quality impacts or any significant disruption of habitat values within an Environmentally Sensitive Habitat Area.

D. Grading during the rainy season may be permitted to remediate hazardous geologic conditions that endanger public health and safety. (Ord. 320 § 4.B, 2008; Ord. 303 § 3, 2007)

CHAPTER 9—HAZARDS

9.1. PURPOSE AND INTENT

The purpose and intent of this chapter is to implement the policies of the City's certified Local Coastal Program (LCP) Land Use Plan (LUP) to insure that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. To implement the certified LUP, development standards, permit and application requirements, and other measures are provided to ensure that permitted development is sited and designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along canyons, hillsides, bluffs and cliffs.

9.2. APPLICABILITY

A. The City of Malibu and the Santa Monica Mountains coastal zone contains areas subject to hazards that present substantial risks to life and property. These areas require additional development controls to minimize risks, and include, but shall not be limited to, the following:

1. Low Slope Stability and/or high potential for landslide, rockfall, or debris flow, and hillside areas that have the potential to slide, fail, or collapse. Some areas potentially subject to earthquake-induced landslides are identified on the official Seismic Hazard Zone maps released by the California Geological Survey, but areas not shown on these maps may also be subject to earthquake-induced landslides.

2. Faulting: the Malibu Coast-Santa Monica Fault Zone. Areas for which special fault hazard studies are required are identified on the official maps of Alquist-Priolo earthquake fault zones released by the California Geological Survey.

3. Floodprone: areas most likely to flood during major storms. Such areas are designated on FEMA Flood Insurance Rate Maps.

4. Liquefaction: areas where water-saturated cohesionless soils can potentially lose strength, subside, and/or spread laterally during strong ground shaking. Some areas potentially subject to liquefaction are identified on the official Seismic Hazard Zone maps released by the California Geological Survey, but areas not shown on these maps may also be subject to liquefaction.

5. Wave Action: shoreline areas subject to damage from wave activity during storms.

6. Tsunamis: areas that are subject to inundation during tsunamis, whether seismically or landslide induced.

7. Fire Hazard: areas subject to major wildfires classified in Fire Zone 4 or in the Very High Fire Hazard Severity Zone.

B. All development requiring a Coastal Development Permit on any parcel of land that is located on or near any area subject to hazards cited above shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified Malibu LCP that may apply. Where any policy or standard provided in this chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Local Coastal Plan, and it is not possible for the development to comply with both the Malibu LCP and other plan, resolution or ordinance, the policies, standards or provisions contained herein shall take precedence.

C. Where applicable, Coastal Development Permits shall be conditioned to require compliance with any policy, standard, or provision contained herein.

9.3. REQUIRED FINDINGS AND ANALYSIS

A. Written findings of fact, analysis and conclusions addressing geologic, flood, and fire hazards, structural integrity or other potential hazard must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. Such findings shall address the specific project impacts relative to the applicable development standards identified in Section 9.4 of the Malibu LIP. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. Findings for approval or conditional approval shall conclude that the project as proposed, or as conditioned, conforms to the certified Local Coastal Program. A Coastal Development Permit for the proposed development shall only be granted if the City's decision making body is able to find that:

1. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons;

2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping or other conditions;

3. The project, as proposed or as conditioned, is the least environmentally damaging alternative;

4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity;

5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

B. If found to be necessary to conform to the development standards contained in this chapter or any other applicable policy or standard of the certified Malibu LCP the proposed development shall be modified,

by special condition, relative to height, size, design, or location on the site and may be required to incorporate other methods to avoid or minimize the adverse impacts on site stability or structural integrity of the proposed development. If special conditions of approval are required in order to bring the project into conformance with the certified Malibu LCP, the findings shall explain how the special condition(s) alleviate or mitigate the adverse effects which have been identified. Mitigation shall not be permitted to substitute for implementation of a feasible project alternative that would lessen or avoid impacts to site stability or structural integrity.

9.4. DEVELOPMENT STANDARDS

A. All proposed new development located in or near an area subject to geologic hazards shall be required to submit a geologic/soils/geotechnical study report prepared by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) that adheres to the City of Malibu's "Guidelines for the preparation of engineering geologic and geotechnical engineering reports," dated February 2002, and identifies any geologic hazards affecting the proposed development site and any necessary mitigation measures. The geologic/soils/geotechnical report shall include a statement by the consulting CEG or GE that the project site is suitable for the proposed development, that the development will be safe from geologic hazard, and that the development will in no way contribute to instability on or off the subject site. Such reports shall be subject to the review and approval of the City geotechnical staff.

B. All recommendations of the consulting CEG or GE and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans must be reviewed and approved for compliance with geologic recommendations by the consulting CEG or GE and the City geotechnical staff.

C. Final plans approved by the consulting CEG or GE and the City geotechnical staff shall be in substantial conformance with the plans approved by the final City decision making body relative to construction, grading, sewage disposal and drainage. Any substantial changes in the proposed development approved by the City which may be required by the project consultants or City geotechnical staff shall require an amendment to the permit or a new Coastal Permit.

D. New development proposed on landslides, steep slopes, unstable or weak soils or any other identified geologic hazard area, shall be permitted only where a factor of safety of 1.5 (static) and a factor of safety of 1.1 (pseudostatic) can be provided. Such analysis shall adhere to all provisions of the City of Malibu's "Guidelines for the preparation of engineering geologic and geotechnical engineering reports," dated February 2002. In addition, for the purpose of this section, quantitative slope stability analyses shall be undertaken as follows:

   1. The analyses shall demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. Seismic analyses may be performed by the pseudostatic method, but in any case shall demonstrate a permanent displacement of less than 50 mm.

2. Slope stability analyses shall be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses shall include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.

3. The effects of earthquakes on slope stability (seismic stability) may be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.20g, and should be evaluated in conformance with the guidelines published by the American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California."

4. All slope analyses shall be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters shall be supported by direct shear tests, triaxial shear test, or literature references.

5. All slope stability analyses shall be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.

6. If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes shall be provided, and shear strength parameters for each orientation shall be supported by reference to pertinent direct sheer tests, triaxial shear test, or literature.

7. When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, circular failure surfaces shall be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium (e.g., Spencer, Morgenstern-Price, and General Limit Equilibrium) are preferred. Methods based on moment equilibrium alone (e.g., Bishop's Method) also are acceptable. In general, methods that solve only for force equilibrium (e.g., Janbu's method) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices.

8. If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure surfaces shall also be calculated. The use of a block failure model shall be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces shall be supported through direct shear tests, triaxial shear test, or literature references.

9. The selection of shear strength values is a critical component to the evaluation of slope stability. Reference should be made to the City of Malibu's "Guidelines for the preparation of engineering geologic and geotechnical engineering reports," dated February 2002, and to the ASCE/SCEC guidelines (see Section 9.4.D.3 of the Malibu LIP) when selecting shear strength parameters and the selection should be based on these guidelines.

E. Measures to remediate or stabilize landslides or unstable slopes that endanger existing structures or threaten public health shall be designed to be the least environmentally damaging alternative, to minimize landform alteration, and to be visually compatible with the surrounding natural environment to the maximum feasible extent. Maximum feasible mitigation measures shall be incorporated into the design and construction of slope stabilization projects to minimize adverse impacts to sensitive resources to the maximum feasible extent.

F. New development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of stormwater runoff in compliance with all requirements contained in Chapter 17 of the Malibu LIP, Water Quality Protection.

G. Floodway zones are defined as areas subject to relatively deep and high velocity floodwater, and designated "Floodway Areas in Zone AE" on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) released by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA). The following uses are allowed in a floodway zone:

1. Open recreation uses, such as public parks.

2. Other uses such that:

   a. Said use does not constitute an unreasonable, unnecessary, undesirable or dangerous impediment to the flow of floodwaters, or cause a cumulative increase in the water surface elevation of the base flood of more than one foot at any point, where base flood shall mean a flood having a one percent chance of being equaled or exceeded in every year (a 100-year flood)

   b. Said use does not increase the need for construction of flood control facilities

   c. Said use does not interfere with the protection of the health, safety, and general welfare of persons and property located within and adjacent to the floodway.

3. Bridges, such that their construction is consistent with Section 9.4.G.2 of the Malibu LIP. Such bridges shall be the preferred alternative over at-grade crossings (including fords and "Arizona Crossings") of streams and floodways.

H. Where feasible, development shall be sited outside of special flood hazard areas. Special flood hazard areas are defined as areas identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) as having special flood or flood-related erosion hazards, and designated on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) as Zones A, A0, AE, A99, AH, V, VE, or V. If it is not feasible to site development outside of flood haz-

ard areas new development shall conform to all aspects of the City of Malibu Municipal Code, Article III, Chapter 8. In addition, all new development shall adhere to the following requirements:

1. New development shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. New development shall be constructed with materials and utility equipment resistant to flood damage.

3. New development shall use methods and practices that minimize flood damage.

4. For residential structures in Zones A, AE, or AH, the lowest floor (including basement) shall be elevated at least one (1) foot above the base flood elevation, where base flood shall mean a flood having a one percent chance of being equaled or exceeded in every year (a 100-year flood).

5. For mobile or manufactures homes, the structure shall be elevated on a permanent foundation such that the lowest floor is at least one (1) foot above the base flood elevation and is securely anchored to an adequately anchored foundation system.

6. For nonresidential structures, the lowest floor (including basement) shall be elevated to or above the base flood level or, together with attendant utility and sanitary facilities, shall be floodproofed below the base flood level to the extent that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, as certified by a registered professional engineer or architect.

7. For structures in an area of shallow flooding (Zone A0 on a FIRM), the lowest floor (including basement) shall be elevated at least one (1) foot above the depth number indicated on the most current FIRM; or if there is no depth number on the most current FIRM, the structure shall be elevated at least three feet above the highest adjacent grade. As an alternative, nonresidential structures, together with attendant utility and sanitary facilities, may be floodproofed to that level as specified in (9) below.

8. For structures in Zones A0 and AH on a FIRM, adequate drainage paths shall exist around structures situated on sloping ground, to guide floodwaters around and away from said structures.

9. Floodproofing of a nonresidential structure shall use a design and/or methods of construction that are in accordance with accepted standards of practice for floodproofing or which will extend the floodproofing to an elevation that is required pursuant to the provisions of this chapter.

10. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

11. All on-site waste disposal systems shall be located to avoid impairment to them, or contamination from them, during flooding.

12. All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

13. All fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters with designs certified by a registered professional engineer or architect; or will have at least two openings no more than one foot above grade with a total net area of at least one square inch per square foot of flooded area.

14. New development shall not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been established. For purposes of this section, "adversely affects" shall mean that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood elevation more than one foot at any point.

15. New development shall not be sited and designed so as to require the construction or installation of flood protective works, including bank protection or channelization. Highway projects shall comply to the maximum extent feasible.

16. Channelizations, dams, or other substantial alterations of rivers and streams shall be limited to (l) necessary water supply projects, (2) flood control projects where no other method for protecting existing principal structures constructed in the floodplain prior to certification of the LCP is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat. All such substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible.

17. Construction or substantial improvement shall not involve the use of fill for structural support of buildings.

18. New construction or substantial improvements shall be elevated on pilings or columns such that:

    a. The bottom of the lowest horizontal structural member of the lowest floor (excluding piling or columns) is elevated at or above the base flood elevation; or

    b. The pile of column foundation and the attached structure is anchored to resist flotation, collapse, or lateral movement due to the effect of wind and water loads having a one percent chance of being equaled or exceeded in any given year, acting simultaneously on all building components.

19. New construction or substantial improvement shall have the space below the lowest floor, if said floor is elevated above grade, free of obstruction or constructed with non-supporting breakaway walls, open wood lattice work or insect screening intended to collapse under wind and water load without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Such enclosed space is not useable for other than parking of vehicles, building access, or storage.

20. The following restrictions shall apply for properties located in areas designated as being located within a Special Flood Hazard Area pursuant to the provisions of this Chapter:

    a. It shall be prohibited to store or process materials that, in a time of flooding, may become buoyant, flammable, explosive, or could be injurious to human, animal, or plant life.

    b. The storage of other material or equipment may be allowed if the storage area will not be subject to major damage by floods and if the stored material is firmly anchored to prevent flotation or is readily removable from the area within the time available after a flood warning.

I. Where feasible, development shall be sited outside of potential tsunami inundation zones. Tsunami inundation zones shall be defined as those areas identified as such on maps released by the California Office of Emergency Services, as they become available. If no such map is available, a Registered Civil Engineer with coastal experience shall make a determination, through wave run-up analysis, whether the site may reasonably be expected to be subject to inundation during a tsunami. If it is not feasible to site development outside of a tsunami inundation zone, new development shall be in conformance with all of the provisions set forth in this chapter with regard to Special Flood Hazard Zones. In addition, development shall be constructed to resist lateral movement due to the effect of water loading from the maximum expected tsunami, to the greatest extent feasible.

J. All development that lies within, or partially within, a designated Earthquake Fault Zone as identified by the Alquist-Priolo Earthquake Fault Zoning Act for protection from fault rupture hazard shall demonstrate compliance with all requirements of the Act prior to issuance of any use permit, building permit, or other entitlement.

K. All development that lies within, or partially within, a zone of required investigation for liquefaction or earthquake-induced landslides as identified by the Seismic Hazard Zone Mapping Act for protection from liquefaction and earthquake induced-landslide hazard shall demonstrate compliance with all requirements of the Act prior to issuance of any use permit, building permit, or other entitlement.

L. All swimming pools shall contain double wall construction with drains and leak detection systems capable of sensing a leak of the inner wall.

M. New development shall be prohibited on property or in areas where such development would present an extraordinary risk to life and property due to an existing or demonstrated potential public health and safety hazard.

N. Land divisions, including lot line adjustments, shall be prohibited unless it can be demonstrated that a safe, legal, all-weather access road can be constructed in conformance with all applicable policies of the Malibu Local Coastal Plan and all proposed parcels and access roads are found to comply with all applicable fire safety regulations.

O. Land divisions, including lot line adjustments, shall be prohibited unless all proposed parcels can be demonstrated to be safe from flooding, erosion, geologic and extreme fire hazards.

P. New development shall be required to utilize design and construction techniques and materials that minimize risks to life and property from fire hazard in compliance with the City Municipal Code, Article III, Chapter 1.

Q. New development shall incorporate fuel modification and brush clearance techniques in compliance with applicable City and County fire safety requirements and shall be designed and carried out to minimize clearance of natural vegetation and reduce impacts to sensitive natural habitat to the maximum feasible extent.

R. Landscaping shall utilize fire-retardant, native plant species in compliance with the requirements of Section 3.12 of the Malibu LIP.

S. New development shall provide for emergency vehicle access and adequate fire-flow water supply in compliance with applicable fire safety regulations.

T. Prior to approval all new development shall demonstrate the availability of an adequate water supply for fire protection in compliance with applicable fire safety regulations.

U. Where applicable, property owners shall comply with fire safety regulations for management of combustible vegetative materials (controlled burns) in fire hazard areas.

V. Emergency actions to repair, replace or protect damaged or threatened development including public works facilities shall be the minimum needed to alleviate the emergency and shall, to the maximum feasible extent, be the least environmentally damaging alternative. A regular permit application shall be required as follow-up to all emergency protection devices or measures in compliance with the Coastal Development Permitting Chapter. All emergency protection devices shall be designed to facilitate removal and replacement with the alternative found to be consistent with all policies and standards of the LCP through the regular permit process.

W. All emergency permits shall be conditioned and tracked to insure that all authorized development is either removed or approved pursuant to a Coastal Development Permit within 180 days of issuance of the emergency permit, unless it meets the criteria as stipulated in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Coastal Commission on September 5, 1978.

X. As a condition of approval of new development within or adjacent to an area subject to flooding, land or mudslide, or other high geologic hazard, prior to issuance of the Coastal Development Permit, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the City and agrees to indemnify the City against any liability, claims, damages, or expenses arising from any injury or damage due to such hazards.

Y. As a condition of approval of new development within or adjacent to an area subject to high wildfire hazards, prior to issuance of the Coastal Development Permit, the property owner shall be required to submit a signed document which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

Z. All new development shall be reasonably safe from mudslide hazards, consistent with the City of Malibu Municipal Code, Article III, Chapter 8, Section 15. (Ord. 303 § 3, 2007)

CHAPTER 10—SHORELINE AND BLUFF DEVELOPMENT ORDINANCE

10.1 PURPOSE AND INTENT

To minimize adverse impacts to coastal resources including public access and shoreline sand supply and from hazards in accordance with the policies of the City's certified Local Coastal Plan (LCP) and the California Coastal Act. To implement the certified Land Use Plan (LUP), development standards, permit and application requirements, and other measures are provided to ensure that development permitted on or along beaches and bluffs within the City of Malibu is (1) sited and designed to minimize risks, assure stability and structural integrity while neither creating nor contributing significantly to erosion or adverse impacts on public access or shoreline sand supply, (2) that new development is sited and designed to not require the construction of protective devices that would create or contribute to shoreline erosion or alter natural landforms and, (3) that shoreline protective devices required to protect existing structures or public beaches in danger from erosion are sited and designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

10.2 APPLICABILITY

A. All development requiring a Coastal Development Permit, including but not limited to residential structures, commercial buildings, and shoreline protective devices (seawall, revetment, retaining wall, bulkhead, tieback anchor system, or similar structure) on any parcel of land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline shall be governed by the policies, standards and provisions of this chapter in addition to any other policies or standards contained elsewhere in the certified LCP which may apply. Where any policy or standard provided in this chapter conflict with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Local Coastal Plan, and it is not possible for the development to comply with both the LCP and other plan, resolution or ordinance, the policies, standards or provisions contained herein shall take precedence.

B. Where applicable, Coastal Development Permits shall be conditioned to require compliance with any policy, standard, or provision contained herein.

10.3 REQUIRED FINDINGS AND ANALYSIS

A. Written findings of fact, analysis and conclusions addressing coastal resources including public access and shoreline sand supply must be included in support of all approvals, denials or conditional approvals of development located on a site along the shoreline or a coastal bluff where it is determined that the proposed project causes the potential to create adverse impacts upon said resources. Such findings shall address the specific project impacts relative to the applicable development standards identified in Section 10.4 of the Malibu LIP. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. Findings for approval or conditional approval shall conclude that the project as proposed, or as conditioned, conforms to the certified Local Coastal Program. A Coastal Development Permit for the proposed development shall be granted only if the City's decision making body is able to find that:

1. The project, as proposed, will have no significant adverse impacts on public access, shoreline sand supply or other resources due to project design, location on the site or other reasons;

2. The project, as conditioned, will not have significant adverse impacts on public access, shoreline sand supply or other resources due to required project modifications or other conditions;

3. The project, as proposed or as conditioned, is the least environmentally damaging alternative;

4. There are no alternatives to the proposed development that would avoid or substantially lessen impacts on public access, shoreline sand supply or other resources;

5. In addition, if the development includes a shoreline protective device, that it is designed or conditioned to be sited as far landward as feasible, to eliminate or mitigate to the maximum feasible extent adverse impacts on local shoreline sand supply and public access, there are no alternatives that would avoid or lessen impacts on shoreline sand supply, public access or coastal resources and is the least environmentally damaging alternative.

B. If found to be necessary to conform to the development standards contained in this chapter or any other applicable policy or standard of the certified LCP the proposed development shall be modified, by special condition, relative to height, setback, size, design, or location on the site and may be required to incorporate other methods to avoid or minimize the adverse impacts of the proposed development. If special conditions of approval are required in order to bring the project into conformance with the certified LCP, the findings shall explain how the special condition(s) alleviate or mitigate the adverse effects which have been identified. Mitigation shall not be permitted to substitute for implementation of a feasible project alternative that would lessen or avoid impacts to coastal resources or public access.

10.4 DEVELOPMENT STANDARDS

A. Siting and design of new shoreline development and shoreline protective devices shall take into account anticipated future changes in sea level. In particular, an acceleration of the historic rate of sea level rise shall be considered and its potential impact on beach erosion, shoreline retreat, and bluff erosion rates shall be evaluated. Development shall be set back a sufficient distance landward and elevated to a sufficient finished floor height to eliminate or minimize to the maximum extent feasible hazards associated with anticipated sea level rise over the expected 100 year economic life of the structure.

B. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave run-up) at any time during the full projected 100 year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and sited as far landward as possible to the maximum extent practicable. All development shall be setback a minimum of 10 feet landward of the most landward surveyed mean high tide line. Whichever setback method is most restrictive shall apply. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure.

C. Development on or near sandy beach or bluffs, including the construction of a shoreline protection device, shall include measures to insure that:

1. No stockpiling of dirt or construction materials shall occur on the beach;

2. All grading shall be properly covered and sandbags, ditches, or other Best Management Practices (BMPs) shall be used to prevent runoff and siltation;

3. Measures to control erosion, runoff, and siltation shall be implemented at the end of each day's work;

4. No machinery shall be allowed in the intertidal zone at any time unless authorized in the Coastal Development Permit;

5. All construction debris shall be removed from the beach daily and at the completion of development.

Such measures shall be implemented as conditions of approval for a Coastal Development Permit.

D. All new development located on a bluff top shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion or threatened by slope instability for a projected 100 year economic life of the structure. In no case shall development be set back less than 100 feet. This distance may be reduced to 50 feet if the City geotechnical staff determines that either of the conditions below can be met with a lesser setback. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area but in no case shall be sited closer than 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist and/or Geotechnical Engineer, or a Registered Civil Engineer with experience in soil engineering. Generally, one of two conditions will exist:

1. If the bluff exhibits a factor of safety of less than 1.5 for either gross or surficial landsliding, then the location on the bluff top at which a 1.5 factor of safety exists shall be determined. Development shall be set back a minimum distance equal to the distance from the bluff edge to the 1.5 factor-of-safety-line, plus the distance that the bluff might reasonably be expected to erode over 100 years. These determinations, to be made by a state-licensed Certified Engineer Geologist, Registered Civil Engineer, or Geotechnical Engineer, shall be based on a site-specific evaluation of the long-term bluff retreat rate at this site and shall include an allowance for possible acceleration of historic bluff retreat rates due to sea level rise.

2. If the bluff exhibits both a gross and surficial factor of safety against landsliding of greater than 1.5, then development shall be set back a minimum distance equal to the distance that the bluff

might reasonably be expected to erode over 100 years plus a ten foot buffer to ensure that foundation elements are not actually undermined at the end of this period. The determination of the distance that the bluff might be expected to erode over 100 years is to be made by a state-licensed Certified Engineer Geologist, Registered Civil Engineer or Geotechnical Engineer, and shall be based on a site-specific evaluation of the long-term bluff retreat rate at the site and shall include an allowance for possible acceleration of historic bluff retreat rates due to sea level rise.

For the purpose of this section, quantitative slope stability analyses shall be undertaken as follows:

1. The analyses shall demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. Seismic analyses may be performed by the pseudostatic method, but in any case shall demonstrate a permanent displacement of less than 50 mm.

2. Slope stability analyses shall be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses shall include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.

3. The effects of earthquakes on slope stability (seismic stability) may be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.20g, and should be evaluated in conformance with the guidelines published by the American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California."

4. All slope analyses shall be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters shall be supported by direct shear tests, triaxial shear test, or literature references.

5. All slope stability analyses shall be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.

6. If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes shall be provided, and shear strength parameters for each orientation shall be supported by reference to pertinent direct sheer tests, triaxial shear test, or literature.

7. When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered homogenous, circular failure surfaces shall be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium (e.g., Spencer, Morgenstern-Price, and General Limit Equilibrium) are preferred. Methods based on moment equilibrium alone (e.g., Bishop's Method) also are acceptable. In general, methods that solve only for force equilibrium (e.g., Janbu's method) are discouraged due to their sensitivity to the ratio of normal to shear forces between slices.

8. If anisotropic conditions are assumed for units containing critical failure surfaces determined above, and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure surfaces shall also be calculated. The use of a block failure model shall be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces shall be supported through direct shear tests, triaxial shear test, or literature references.

9. The selection of shear strength values is a critical component to the evaluation of slope stability. Reference should be made to the City of Malibu's current "Guidelines for the preparation of engineering geologic and geotechnical engineering reports," and to the ASCE/SCEC guidelines (see Section 9.4.D.3) when selecting shear strength parameters and the selection should be based on these guidelines.

For the purpose of this section, the long-term average bluff retreat rate shall be determined by the examination of historic records, surveys, aerial photographs, published or unpublished studies, or other evidence that unequivocally show the location of the bluff edge, as defined in Chapter 2 of the Malibu LIP, through time. The long-term bluff retreat rate is an historic average that accounts both for periods of exceptionally high bluff retreat, such as during extreme storm events, and for long periods of relatively little or no bluff retreat. Accordingly, the time span used to calculate a site-specific long-term bluff retreat rate shall be as long as possible, but in no case less than 50 years. Further, the time interval examined shall include the strong El Niño winters of 1982-1983, 1994-1995 and 1997-1998.

E. Swimming pools shall be constructed in accordance with the pool/spa submittal requirements outlined in Plate F of the City of Malibu "Guidelines for the Preparation of Geologic and Geotechnical Engineering Reports," dated February 2002. In addition, swimming pools and spas shall be located landward of the structural setback requirements as outlined in Section 10.4.D of the Malibu LIP. In addition, all swimming pools and spas shall be of double wall construction with subdrains between the walls and leak detection systems.

F. No permanent structures shall be permitted on a bluff face, except for engineered stairways or accessways to provide public beach access where no feasible alternative means of public access exists. Drainage devices constructed to conform to applicable Best Management Practices shall be installed in such cases. Such structures shall be constructed and designed to not contribute to further erosion of the bluff face and to be visually compatible with the surrounding area to the maximum extent feasible.

G. In existing developed areas where new beachfront development, excluding a shoreline protective device, is found to be infill as defined in Section 2.1 of the LIP and is otherwise consistent with the policies of the LCP, a new residential structure shall not extend seaward of a stringline drawn between the nearest adjacent corners of the enclosed area of the nearest existing residential structures on either side of the subject lot. Similarly, a proposed new deck, patio, or other accessory structure shall not extend seaward of a stringline drawn between the nearest adjacent corners of the nearest deck, patio or accessory structure on either side. All infill development shall be setback a minimum of 10 feet landward from the most landward surveyed mean high tide line on the parcel. Whichever setback method is most restrictive shall apply. The stringline

method shall apply only to infill development as it is defined in Section 2.1 and where it will not result in development which would require a shoreline protection structure at any time during the life of the project.

H. All new beachfront and bluff-top development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards without requiring a shoreline protection structure at any time during the life of the development.

I. All new beachfront development shall be required to utilize a foundation system adequate to protect the structure from wave and erosion hazard without necessitating the construction of a shoreline protection structure.

J. New development shall include, at a minimum, the use of secondary treatment waste disposal systems and shall site these new systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible.

K. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. 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 Malibu 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.

L. 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, 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.

M. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.

N. Where it is determined by a wave uprush and impact report and analysis prepared by a licensed civil engineer with expertise in coastal engineering to be necessary to provide shoreline protection for an existing residential structure built at sand level, a "vertical" seawall or bulkhead shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.

O. On any beach found to be appropriate, alternative "soft solutions" to the placement of shoreline protection structures shall be required to protect new or existing development. Soft solutions shall include dune restoration, sand nourishment, and design criteria emphasizing maximum landward setbacks and raised foundations.

P. The placement of sediments removed from erosion control or flood control facilities at appropriate points along the shoreline shall be permitted for the purpose of beach nourishment, provided that they meet the U.S. Army Corps of Engineers criteria for grain size, color, and contamination. Any beach nourishment program for sediment deposition shall be designed to minimize adverse impacts to beach, intertidal and offshore resources, shall incorporate appropriate mitigation measures, and shall consider the method, location and timing of placement. Sediment removed from catchment basins may be disposed of in the littoral system if it is tested and is found to be of suitable grain size and type. Any program shall identify and designate appropriate beaches or offshore feeder sites in the littoral system for placement of suitable materials from catchment basins.

Q. Land divisions, including subdivisions, lot splits, lot line adjustments, and certificates of compliance which create new beachfront or blufftop lots, shall not be permitted unless the subdivision can be shown to create lots which can be developed without requiring a bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year economic life of the development. (Ord. 303 § 3, 2007)

10.5 APPLICATION SUBMITTAL REQUIREMENTS

A. All applications for new development on a beach, beachfront or bluff-top property shall include an analysis of beach erosion, wave run-up, inundation and flood hazards prepared by a licensed civil engineer with expertise in coastal engineering. All applications for bluff-top development shall include a slope stability analysis, prepared by a licensed Certified Engineering Geologist and/or Geotechnical Engineer or Registered Civil Engineer with expertise in soils. These reports shall address and analyze the effects of said development in relation to the following:

1. The profile of the beach;

2. Surveyed locations of mean high tide lines acceptable to the State Lands Commission;

3. The availability of public access to the beach;

4. The area of the project site subject to design wave run-up, based on design conditions;

5. Foundation design requirements;

6. The need for a shoreline protection structure over the life of the project;

7. Alternatives for protection of the septic system;

8. The long-term effects of proposed development of sand supply;

9. The FEMA Base Flood Elevation and other mapped areas (A, B, or V zones);

10. Future projections in sea level rise;

11. Project alternatives designed to avoid or minimize impacts to public access;

12. Slope stability and bluff erosion rate determination performed as outlined in Section 10.4.D of the Malibu LIP.

B. Applications for new beachfront or bluff-top development, including but not limited to shoreline protective structures, shall include a site map that shows all easements, deed restrictions, or "Offers to Dedicate" and/or other dedications for public access or open space and provides documentation for said easements or dedications. The approved development shall be located outside of and consistent with the provisions of such easement or offers.

C. All applications for proposed development on a beach or along the shoreline, including a shoreline protection structure, shall contain written evidence of a review and determination from the State Lands Commission relative to the proposed project's location to or impact upon the boundary between public tidelands and private property. Such determination shall be a filing requirement for a Coastal Development Permit and any application filed without such determination shall be determined to be incomplete.

D. Applications for development on a beach or along the shoreline shall not be approved if the State Lands Commission determines that the proposed development is located on public tidelands or would adversely impact tidelands unless State Lands Commission approval is given in writing.

E. For beachfront development that will be subject to wave action periodically, unless the State Lands Commission determines that there is no evidence that the proposed development will encroach on tidelands or other public trust interests, the City shall reject the application on the ground that it is within the original permit jurisdiction of the Coastal Commission, and shall direct the applicant to file his or her application with the Coastal Commission.

10.6 REQUIREMENTS FOR RECORDED DOCUMENTS AND DEED RESTRICTIONS

A. As a condition of approval of development on a coastal bluff, beach or shoreline that is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

B. As a condition of approval of a new shoreline protection structure, or repairs or additions to an existing shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject shoreline protection structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235.

1. The restrictions also shall acknowledge that the intended purpose of the subject structure is solely to protect structures currently existing at the site, in their present condition and location, including the OWTS and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the OWTS, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the City determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure. Public works projects completed pursuant to the document entitled Repair, Maintenance, and Utility Hookups, adopted by the Coastal Commission on September 5, 1978 are exempt from the above stated requirement.

C. As a condition of approval of new development on a vacant beachfront or bluff-top lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed so as to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235. (Ord. 303 § 3, 2007)

CHAPTER 11—ARCHAEOLOGICAL/CULTURAL RESOURCES

11.1. PURPOSE

The intent of these provisions is to avoid the damage to or destruction of important cultural resources within the City of Malibu.

11.2. APPLICABILITY

A Cultural Resource Review pursuant to this Section shall be required for all projects prior to the issuance of a planning approval, development permit, geological/geotechnical exploratory excavation permit, sewer permit, building permit, grading permit, or prior to the commencement of government-initiated or funded works except those projects necessary for emergency purposes.

11.3. CULTURAL RESOURCE REVIEW

A. In each phase of the Cultural Resource Review required under Sections 11.3 (B), (C), (D), (E), (F), (G), and (H), the Planning Manager shall provide the opportunity for review of potential impacts to cultural resources by providing written notice (including the location, detailed description and alternatives of the proposed development) and requesting comments from the Native American Heritage Commission (NAHC), State Historic Preservation Officer (SHPO), the City Native American Cultural Resources Advisory Committee (NACRAC), and the Most Likely Descendent (MLD). In addition: (a) in each phase that requires the selection of an archaeologist, the archaeologist shall be selected from a list provided by the NAHC, NACRAC, MLD, if a list is available; (b) in each phase that requires the selection of a monitor, the selection of that monitor shall be made in consultation with the NACRAC, MLD, and NAHC. Comments received shall be considered in the review of coastal development permits for new development.

B. Preliminary Review. The Manager shall conduct a preliminary review of all projects to determine whether the project may have an adverse impact (or "substantial adverse change" as defined by CEQA) on an important cultural resource. The Planning Manager shall utilize the criteria contained in the definition of "Important Cultural Resource" (Chapter 2 of the Malibu LIP) in determining an important cultural resource. It shall be determined if the project will result in earth disturbance. The Cultural Resources Sensitivity Map will be reviewed to determine if an earth-disturbing project requires archeological review. Where the Planning Manager determines that the project will not have an adverse impact or result in a substantial adverse change to an important cultural resource, no further Cultural Resources Review shall be required.

C. Initial Evaluation. Where, following the Preliminary Review, the Manager determines that the project may have an adverse impact on an important cultural resource, the project applicant shall submit an Initial Evaluation. An Initial Evaluation shall include a review of relevant documents and a field survey of the project site to verify the presence and condition of previously recorded cultural resources and to identify previously unrecorded resources. The Initial Evaluation shall be prepared by a qualified archaeologist hired by the project applicant or by the City Archaeologist if requested by the project ap-

plicant. Where the Initial Evaluation reveals that the project will not have an adverse impact on an important cultural resource or cause substantial adverse changes as defined by CEQA, no further Cultural Resources Review shall be required.

D. Phase I Inventory. Where, following the Initial Evaluation, the Manager determines that the project may have an adverse impact on or result in a substantial adverse change to cultural resources; the Manager shall require that a Phase I Inventory of cultural resources be prepared. The project applicant shall submit a Phase I Inventory conducted by a qualified archaeologist hired by the project applicant. All Phase I Inventories that involve any excavation or monitoring shall be conducted in consultation with a qualified Chumash Cultural Resources Monitor.

E. Phase I Inventories shall include:

1. A records search through the regional historical resources information center;

2. An archival search of historic records;

3. A field survey described in Subsection B; and

4. A written report which describes how the survey was conducted and the result of the survey.

F. If on the basis of the Phase I Inventory described above, one or more significant cultural resources is found, a Phase I Inventory may be required to include:

1. An evaluation of limited shovel test pits to determine whether a subsurface deposit is present and a negative declaration shall be prepared;

2. Recommendations for Phase II. Evaluations and a negative declaration, mitigated negative declaration, focused environmental impact report or an environmental impact report shall be prepared; or

3. Monitoring programs pursuant to Section 11.3 (F)(4)(b) of the Malibu LIP and a mitigated negative declaration shall be prepared.

G. Phase II Evaluation.

1. Applicability. Where, as a result of the Phase I Inventory, the Planning Manager determines that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required and a negative declaration, mitigated negative declaration, focused environmental impact report, or an environmental impact report shall be prepared. All Phase II Evaluations shall be conducted by a qualified archaeologist and, where the Phase I Inventory indicates the presence of prehistoric or ethnohistoric Chumash cultural resources, the evaluation shall also be conducted in consultation with a qualified Chumash cultural resources monitor.

2. Definition. Phase II Evaluations are investigations intended to gather any additional data necessary to assess the importance of the cultural resources identified in Phase I Inventories, to define site boundaries of the cultural resources, to assess the site's integrity, to evaluate the project's potential adverse impacts on cultural resources, and to develop measures to mitigate potential adverse impacts. Phase II Evaluation proposals shall be designed on a project-specific basis and must be guided by a research design/work plan that clearly identifies the study goals and articulates the proposed methods of data collection and analysis with the goals. Data collection methods may include a number of subsurface exploration techniques, including excavation of auger holes, test pits, or trenches.

3. City Review and Approval. The Planning Manager shall review and approve all Phase II design/work plans prior to any testing or excavations. The Planning Manager shall also review and approve all reports resulting from Phase II Evaluations. Where, as a result of the Phase II Evaluation, the Planning Manager determines that the project will not have an adverse impact on important cultural resources, no further cultural resource review of the project shall be required.

4. Exceptions. Notwithstanding the foregoing provisions, the Planning Manager may waive the preparation of a Phase II Evaluation and prepare a mitigated negative declaration where the Phase I Inventory indicates the following conditions:

   a. Based upon substantial evidence, the Planning Manager determines that there is the presence of prehistoric or ethnohistoric Chumash cultural resources and it appears unlikely that the project site will contain important cultural resources (as for example, where the site is in an area of low density of artifacts or other remains, the suspected amount of the site deposit to be disturbed is small, or where it appears the artifacts or other remains have been historically redeposited); and

   b. Project applicant agrees to provide monitoring of all excavation or trenching by a qualified Chumash cultural resource monitor, chosen in consultation with the Native American Heritage Commission, State Historic Preservation Officer, and the City Native American Cultural Resources Advisory Committee, and the most likely descendent.

      In the event that any potentially important cultural resources are found in the course of excavation or trenching, work shall immediately cease until the qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Manager can review this information. Where, as a result of this evaluation, the Planning Manager determines that the project may have an adverse impact on cultural resources, a Phase II Evaluation of cultural resources shall be required pursuant to Section 11.3 (F) of the Malibu LIP. The limitations on mitigation as described in Section 11.3 (H) of the Malibu LIP shall not be applicable to monitoring programs described in Section 11.3 (F)(4)(b) of the Malibu LIP.

H. Phase III Mitigation Programs

1. Applicability. Where, as a result of the Phase II Evaluation the Planning Manager determines that the project may adversely affect important cultural resources, a Phase III Mitigation Program shall be required. All Phase III Mitigation Programs shall be conducted by a qualified archaeologist and, where the Phase II Evaluation indicates the presence of important prehistoric cultural resources or ethnohistoric Chumash cultural resources, the evaluation shall also be conducted in consultation with a qualified Chumash cultural resource monitor.

2. Purpose. Phase III Mitigation Programs are intended to mitigate adverse impacts upon important cultural resources. These programs shall be designed on a project-specific basis to meet the particular needs of each project and shall be guided by a research design/work plan that clearly articulates the scope of mitigation based on the recommendations developed in the prior Phase II Evaluation of the affected site.

3. Cultural Resource Impact Mitigation. Measures to mitigate potential impacts may include, but shall not be limited to, the following:

    a. In-situ preservation of the important cultural resource site (This is the preferred mitigation measure where feasible).

    b. Avoiding damage to the important cultural resource site through the following approaches:

        i. Planning construction to miss important cultural resource sites.

        ii. Planning parks or other open space to incorporate important cultural resource sites.

        iii. "Capping" or covering important cultural resource sites with a layer of soil before building tennis courts, parking lots, or similar facilities. Capping may be utilized if all the following conditions are satisfied:

            (a) The soils to be covered will not suffer serious compaction;

            (b) The covering materials are not chemically active;

            (c) The site is one in which the natural processes of deterioration have been effectively arrested; and

            (d) The site has been recorded.

        iv. Deeding important cultural resource sites into permanent conservation easements.

v. Scientific data recovery of an appropriate sample of the important cultural resource(s) via surface collection and archaeological excavation as provided for under this Section, where in-situ preservation is not feasible.

I. Limitations on Mitigation. The limitations on mitigating adverse impacts on important cultural resources shall apply as provided in California Environmental Quality Act as may be amended from time to time.

J. Review and Approval. The Planning Manager shall review and approve all design/work plans for Phase III Mitigation Programs and reports which detail the evaluative techniques and results.

K. Cost. The maximum fees for Cultural Resource Reviews required by this Chapter shall be set by Resolution of the City Council, and as amended from time to time, except where limited by the California Environmental Quality Act. (Ord. 303 § 3, 2007)

11.4. CATALOGING AND FILING OF INFORMATION

A. All reports resulting from the conduct of any cultural resource review described in this Chapter shall be filed with the Regional Historical Resources Information Center.

B. All artifacts discovered in connection with any cultural resource review shall be recorded in the manner required by the State of California. All site records, field notes, maps, photographs, notes by Native American monitors, reports by consulting archaeologists, and other records resulting from the conduct of any cultural resource review described in this Chapter shall be cataloged in accordance with the United States Department of the Interior Guidelines.

11.5. ARCHAEOLOGICAL DISCOVERIES

Any person who discovers important cultural resources during the course of construction for a project shall notify the Planning Manager of the discovery. Once important cultural resources are discovered, no further excavation shall be permitted without approval of the Planning Manager. (Ord. 303 § 3, 2007)

CHAPTER 12—PUBLIC ACCESS ORDINANCE

12.1. PURPOSE

A. The purpose of the Public Access Chapter is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act codified at sections 30000 through 30900 of the California Public Resources Code (PRC). PRC Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

B. To implement the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210-30255).

C. To implement the certified land use plan of the City's Local Coastal Program which is required by Section 30500(a) of the Act to include a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

D. In achieving these purposes, this chapter shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives, and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. (Ord. 303 § 3, 2007)

12.2. TYPES OF PUBLIC ACCESS AND RECREATION

A. Lateral public access provides public access and use along or parallel to the sea or shoreline.

B. Bluff top access provides public access and coastal viewing along a coastal bluff top area.

C. Vertical access provides a public access connection between the first public road, trail, or public use area nearest the sea and the publicly owned shoreline, tidelands or established lateral access.

D. Trail access provides public access (i.e. hiking and equestrian) along a coastal or mountain recreational path, including to and along canyons, rivers, streams, wetlands, lagoons, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland trails or recreational facilities to the shoreline.

E. Recreational access provides public access to coastal recreational resources through means other than those listed above, including but not limited to parking facilities, viewing platforms and blufftop parks.

12.3. CHARACTER OF ACCESSWAY USE

A. Pass and repass refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by

restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Section 12.7.3 of the Malibu LIP establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner. This subsection shall not apply to lateral public access requirements or dedications along the shoreline.

B. Passive recreational use refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.

C. Active recreational use refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

12.4. ACCESS REQUIRED

As a condition of approval and prior to issuance of a permit or other authorization for any new development identified in A through D of this section, except as provided in Section 12.5 of the Malibu LIP, an offer to dedicate an easement or a grant of easement (or other legal mechanism pursuant to Section 12.7.1(b) of the Malibu LIP) for one or more of the types of access identified in Section 12.2 (a-e) of the Malibu LIP shall be required and shall be supported by findings required by Sections 12.7.3-12.9 of the Malibu LIP; provided that no such condition of approval shall be imposed if the analysis required by Sections 12.7.3 (a) through (d) of the Malibu LIP establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified.

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing an historically used or suitable public access trail or pathway.

B. New development between the nearest public roadway and the sea.

C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.

D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

12.5. EXCEPTIONS

Section 12.4 of the Malibu LIP shall apply except in the following instances:

A. Projects excepted from the definition of “new development” at Section 2.1 of the Malibu LIP.

B. Where findings required by Sections 12.7.3 and 12.8.1 of the Malibu LIP establish any of the following:

1. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources.

2. Adequate access exists nearby.

C. Exceptions identified in (b) shall be supported by written findings required by Section 12.9 of the Malibu LIP. (Ord. 303 § 3, 2007)

12.6. STANDARDS FOR APPLICATION OF ACCESS CONDITIONS

12.6.1 Lateral Public Access

The public access required pursuant to Section 12.4 of the Malibu LIP shall conform to the standards and requirements set forth in Sections 12.6 through 12.7.2 of the Malibu LIP.

A. Minimum requirements. [Also to be used for blufftop access or trail access, as applicable.] A condition to require an offer to dedicate an easement or a grant of easement for lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses, such as limiting access to pass and repass or restricting hours of use, may be justified by site characteristics including sensitive habitat values or fragile topographic features or by the need to protect the privacy of residential development.

1. To protect marine mammal haul out areas and seabird nesting and roosting sites at Point Dume, Paradise Cove, or other area documented by evidence, a limited period, during which public access should be controlled may be necessary such as during nesting and breeding seasons if recommended by the City biologist, Environmental Review Board or other qualified professional. Any limitation on access shall be for the minimum period necessary, shall be evaluated periodically by the City to determine the need for continued limited use and, where applicable to Section 2.1 of the Malibu LIP, shall require a Coastal Development Permit. Active recreational use may be appropriate where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 12.8.1 of the Malibu LIP. Lateral access shall be legally described as required in Section 12.6.7 of the Malibu LIP. (Ord. 303 § 3, 2007)

12.6.2 Vertical Public Access

A. Minimum requirements. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of access, (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the local government has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Malibu Local Coastal Program.

B. A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 12.8.1 of the Malibu LIP.

C. Each vertical accessway shall extend from the public road to the shoreline (or bluff edge) and shall be legally described as required in Section 12.6.7 of the Malibu LIP. The access easement shall be a minimum of 10 feet wide wherever feasible. If a residential structure is proposed, the accessway should be sited along the border or side property line of the project site or away from existing or proposed development and should not be sited closer than 10 feet to the structure wherever feasible. Exceptions to siting a vertical accessway along a border or side property line or not closer than 10 feet to a structure may be required where topographical, physical or other constraints exist on the site. To protect marine mammal haul out areas and seabird nesting and roosting sites at Point Dume, Paradise Cove, or other area documented by evidence, a limited period, during which public access should be controlled may be necessary such as during nesting and breeding seasons if recommended by the City biologist, Environmental Review Board or other qualified professional. Any limitation on access shall be for the minimum period necessary, shall be evaluated periodically to determine the need for continued limited use and, where applicable pursuant to Section 2.1 of the Malibu LIP, shall require a Coastal Development Permit.

12.6.3 Bluff Top Access

A. Minimum requirements. A condition to require public access to or along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands.

B. The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section 12.8.1 of the Malibu LIP.

C. Each bluff top accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending 25 feet inland or [greater or lesser] as determined to be necessary for public safety or geologic stability. However, wherever feasible, the accessway should not extend any closer than 10 feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the 100-year life expectancy of the improvements plus an added geologic stability factor of 1.5. In no case shall the setback be less than 100 feet from the bluff edge which may be reduced to 50 feet if recommended by the City Geologist and the 100 year economic life of the structure with the geologic safety factor can be met provided that the setback will result in a minimum distance of 10 feet between the structure and the accessway for the life of the structure.

D. The accessway shall be legally described as required in Section 12.6.7 of the Malibu LIP, with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:

"Such easement shall be a minimum of 25 feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge."

12.6.4 Trail Access

Minimum requirements. A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of access and active recreational use, (1) along a designated alignment of a coastal recreational path or trail in specific locations identified in the LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section 12.8.1 of the Malibu LIP. The trail access shall be legally described as required by Section 12.6.7 of the Malibu LIP.

12.6.5 Recreational Access

Minimum requirements. A condition to require public recreational access as a condition of approval of a coastal development permit (or some other authorization to proceed with development) required pursuant to Section 12.4 of the Malibu LIP shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Sections 12.6.1 through 12.6.4 of the Malibu LIP as applicable. The accessway shall be legally described as required in Section 12.6.7 of the Malibu LIP.

12.6.6 Protection of Historic Public Use

A. Substantial evidence determination. Substantial evidence that the area used by the public has been impliedly dedicated shall be determined based on evidence of all of the following:

1. The public must have used the land for a period of five years or more as if it were public land.

2. Without asking for or receiving permission from the owner.

3. With the actual or presumed knowledge of the owner.

4. Without significant objection or bona fide attempts by the owner to prevent or halt the use.

5. The use must be substantial, rather than minimal.

6. The applicant must not have demonstrated that the law has prevented the property from being impliedly dedicated.

B. Findings. Where an issue as to the existence of public prescriptive rights has been raised during the course of reviewing a coastal development permit application, one of the following findings shall be made:

1. Substantial evidence does not warrant the conclusion that public prescriptive rights exist.

2. There is substantial evidence of the existence of public prescriptive rights, but development will not interfere with those rights.

3. There is substantial evidence of the existence of public prescriptive rights which requires denial of a coastal development permit because of interference with those rights.

4. There is substantial evidence of the existence of public prescriptive rights, but a condition requiring dedication of public access protects the rights of the public and is equivalent in time, place and manner to any prescriptive rights which may exist.

5. There is substantial evidence of the existence of public prescriptive rights, but a condition requiring siting development away from the area used by the public protects the rights of the public.

C. Siting and design requirements. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may exist based on substantial evidence of historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to

and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Sections 12.6.1 through 12.6.5 above of the Malibu LIP. Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist.

D. Minimum requirements. An access condition shall not serve to extinguish or waive public prescriptive rights that may exist. The following language shall be included in any access condition required in a permit:

"The terms and conditions of this permit do not authorize any interference with prescriptive rights in the areas subject to the easement prior to acceptance of the offer."

12.6.7 Legal Description of an Accessway: Recordation

A. An access dedication (offer to dedicate or grant of easement) required pursuant to Section 12.4 of the Malibu LIP shall be described, in the condition of approval of the permit or other authorization for development in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows: (1) for lateral access: along the entire width of the property from the mean high tide line landward to a point fixed at the most seaward extent of development (as applicable): the toe of the bluff, the intersection of sand with toe of revetment, the vertical face of seawall, or other appropriate boundary such as dripline of deck. On beachfront property containing dune ESHA the required easement for lateral public access shall be located along the entire width of the property from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation; (2) for blufftop access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail; (3) for vertical access: extending from the road to the mean high tide line (or bluff edge).

B. Prior to the issuance of the coastal development permit or other authorization for development, the landowner shall execute and record a document in a form and content acceptable to the Coastal Commission [or local agency authorized pursuant to 14 Cal. Code of Regulations Section 13574(b)], consistent with provisions of Section 12.8.1 of the Malibu LIP of this ordinance, irrevocably offering to dedicate (or grant an easement) to a public agency or private association approved by the Coastal Commission [or local agency authorized by the Commission pursuant to 14 Cal. Admin. Code Section 13574(b)] an easement for a specific type of access as described in Section 12.2 and a specific character of use as described in Section 12.3 of the Malibu LIP, as applicable to the particular condition.

C. The recorded document shall provide that: (1) the terms and conditions of the permit do not authorize any interference with prescriptive rights in the area subject to the easement prior to acceptance of the offer and, (2) development or obstruction in the accessway prior to acceptance of the offer is prohibited.

D. The recorded document shall include legal descriptions and a map drawn to scale of both the applicant's entire parcel and the easement area. The offer or grant shall be recorded free of prior liens and any other encumbrances which the Coastal Commission [or local agency authorized by the Commission pursuant to 14 Cal. Admin. Code Section 13574(b)] determines may affect the interest being conveyed. The offer to dedicate or grant of easement shall run with the land in favor of the People of the State of California, binding all successors and assignees, and the offer shall be irrevocable for a period of 21 years, such period running from the date of recording.

12.6.8 Implementation

A. For any project where the LCP requires an offer to dedicate an easement for a trail or for public beach access, a grant of easement may be recorded instead of an offer to dedicate an easement, if a government agency or private association is willing to accept the grant of easement and is willing to operate and maintain the trail or public beach accessway.

B. A dedicated accessway shall not be required to be opened to public use until a public agency or private association approved in accordance with Section 12.6.7 of the Malibu LIP agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction. New offers to dedicate public beach or trail access easements shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights, in the area subject to the easement prior to acceptance of the offer and, 2) prohibits any development or obstruction in the easement area prior to acceptance of the offer.

C. Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) shall be as wide as necessary to accommodate the numbers and types of users that can reasonably be expected. Width of facilities can vary for ramps or paved walkways, depending on site factors.

D. For all offers to dedicate or to grant of an easement that are required as conditions of Coastal Development Permits approved by the City, the City has the authority to approve a private association that seeks to accept the offer or the grant of easement. Any government agency may accept an offer to dedicate or grant of an easement if the agency is willing to operate and maintain the easement. The City shall approve any private association that submits a plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate or grant the easement. For all offers to dedicate or grant of an easement that were required as conditions of Coastal Development Permits approved by the Coastal Commission, the Executive Director of the Commission retains the authority to approve a government agency or private association that seeks to accept the offer or grant of easement.

E. The appropriate agency or organization to accept and develop trail dedication offers or grants of easement resulting from City issued CDPs shall be determined through coordination, where applicable, with the National Park Service, the State Department of Parks and Recreation, the State Coastal Conservancy, Los Angeles County, the Santa Monica Mountains Conservancy, and the Santa Monica Mountains Trails Council, and nonprofit land trusts or associations. Public agencies and private asso-

ciations which may be appropriate to accept offers to dedicate include, but shall not be limited to, the State Coastal Conservancy, the State Department of Parks and Recreation, the State Lands Commission, the County, the City, the Santa Monica Mountains Conservancy and non-governmental organizations.

F. Offers to dedicate or grants of public access easements shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway shall be opened within five (5) years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association expressly requests ownership of the easement in order to open it to the public, the easement holder shall transfer the easement to that entity within six (6) months of the written request. A Coastal Development Permit that includes an offer to dedicate or grant an easement for public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association that requests such transfer, if the easement holder has not opened the accessway to the public within five (5) years of accepting the offer.

G. Facilities to complement public access to and along the shoreline and trails shall be permitted where feasible and appropriate. This may include parking areas, restrooms, picnic tables, or other improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessway or trail OTD or grant of easement or as a precondition to the opening or construction of the accessway or trail. Where there is an existing, but unaccepted and/or unopened public access OTD, easement, or deed restriction for lateral, vertical, bluff or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for the intended public use.

H. Any accessway which the managing agency or organization determines cannot be maintained or operated in a condition suitable for public use shall be offered to another public agency or qualified private association that agrees to open and maintain the accessway in a condition suitable for public use.

I. All public access mitigation conditions or terms required by a CDP shall include, as a compliance component, a requirement that the permittee submit a detailed and surveyed map, drawn to scale, locating any proposed or required easements or deed restricted areas.

12.6.9 Title Information

As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. All offers or grants shall be made free of all encumbrances which the approving authority pursuant to Section 12.6.7 of the Malibu LIP determines may affect the interest being conveyed. If any such interest exists which could extinguish the access easement, it must be subordinated through a written and recorded agreement.

12.7. REQUIRED FINDINGS AND SUPPORTING ANALYSIS FOR PUBLIC ACCESS DEDICATIONS

12.7.1 Required Overall Findings

A. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea (whether development or new development). Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals or conditional approvals of projects (whether development or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 12.7.2 of the Malibu LIP and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

1. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 12.7.2 of the Malibu LIP. The type of affected public access and recreation opportunities shall be clearly described.

2. An analysis based on applicable factors identified in Section 12.8.1 of the Malibu LIP of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.

3. A description of the legitimate governmental interest furthered by any access condition required.

4. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified and is reasonably related to those burdens in both nature and extent.

12.7.2 Required Project-Specific Findings

In determining any requirement for public access, including the type of access and character of use, the City shall evaluate and document in written findings the factors identified in subsections A through E, to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the dedication will alleviate or mitigate the adverse effects which have been identified and is reasonably related to those adverse effects in both nature and extent. As used in this section, “cumulative effect” means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning requirements or regulations.

A. Project effects on demand for access and recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project’s effects upon existing public access and recreation opportunities. Analysis of the project’s cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensifica-

tion or cumulative buildout. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities.

B. Shoreline processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of existing or proposed shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development, Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project—alone or in combination with other anticipated changes—will have upon the ability of the public to use public tidelands and shoreline recreation areas.

C. Historic public use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal).

Evidence of the type and character of use made by the public (vertical, Lateral, blufftop, etc. and for passive and/or active recreational use, etc. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).

D. Physical obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline.

E. Other adverse impacts on access and recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

12.7.3 Required Findings for Public Access Exceptions

Any determination that one of the exceptions of Section 12.5 of the Malibu LIP applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

A. The type of access potentially applicable to the site involved (vertical, lateral, blufftop, etc.) and its location in relation to the fragile coastal resource to be protected, the public safety concern, or the military facility which is the basis for the exception, as applicable.

B. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that fragile coastal resources, public safety, or military security, as applicable, are protected.

C. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.

12.8. REVIEW OF RECORDED ACCESS DOCUMENTS

12.8.1 Standards and Procedures

Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate or grant an interest or easement in land for public use, a copy of the permit conditions, findings of approval and drafts of any legal documents proposed to implement the conditions shall be forwarded to the California Coastal Commission for review and approval prior to the issuance of the permit consistent with Section 13.19 of the Coastal Development Permit Chapter of the Malibu LIP and California Code of Regulations Section 13574. (Ord. 303 § 3, 2007)

12.9. CDP PERMITTING AND APPLICATION

In addition to permit and application submittal requirements established elsewhere in this LCP New Development pursuant to Section 2.1 of the Malibu LIP shall be subject to the following additional permit and/or application requirements.

A. In order to maximize public access and recreation opportunities at existing public beaches or parks limitations on time of use or increases in use fees or parking fees, which effect the intensity of use, shall be subject to a Coastal Development Permit.

B. The City shall not close, abandon, or render unusable by the public any existing accessway which the City owns, operates, maintains, or is otherwise responsible for unless determined to be necessary for public safety without first obtaining a Coastal Development Permit.

C. Any limitation on existing public access to or along a beach, trail, or bluff located in a sensitive habitat area determined to be necessary for temporary protection of habitat, restoration, repair and/or mainte-

nance shall be for the minimum period necessary but shall not exceed the nesting season for shorebird habitat or be greater than 90 days for habitat restoration or 30 days for repair and maintenance, and shall require a Coastal Development Permit. Any limitation for purposes of protecting or restoring habitat shall be subject to review and approval, where required, from the Department of Fish & Game and U.S. Fish and Wildlife, shall be restricted to the minimum area necessary to protect the habitat and shall be supported by the review and approval of the City biologist, Environmental Review Board or other designated qualified professional. Access to or along public tidelands or areas subject to an accepted and opened Offer to Dedicate or grant of easement shall not be fully restricted.

D. No signs shall be posted on a beachfront or on public beach unless authorized by a Coastal Development Permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral or vertical access easement areas is restricted shall not be permitted.

E. Improvements and/or opening of accessways already in public ownership or that are accepted pursuant to an offer to dedicate required by a Coastal Development Permit shall be permitted regardless of the distance from the nearest available vertical accessway.

F. No new structures or reconstruction, except for routine repair and maintenance or to replace a structure destroyed by natural disaster in accordance with PRC Section 30610(d) and (g), shall be permitted on a bluff face, except for engineered staircases or accessways to provide public shoreline access where no feasible alternative means of public access exists.

G. All applications for new development located along the shoreline or fronting a beach shall include the submittal of a review and/or determination in writing from the State Lands Commission that addresses the proposed project relative to its location or proximity to, or impact upon, the boundary between public tidelands and private property. Any application for development on or along the shoreline filed without such determination shall be determined to be incomplete for filing.

H. Coastal Development Permit application filing requirements shall include the submittal of mapped documentation identifying the location of any existing recorded shoreline or inland trail OTDs, deed restrictions, or easements on the subject parcel(s).

12.10. 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 onsite, 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. Luxury overnight accommodations shall be defined as the point at

which the cost of an overnight room exceeds 120 percent of the median cost of an overnight room for all overnight accommodations in the City of Malibu.

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. If the City completes a fee study to determine the appropriate in-lieu fee, which provides the necessary mitigation, the in-lieu fee requirement may be revised accordingly.

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 contractural 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.

CHAPTER 13—COASTAL DEVELOPMENT PERMITS

13.1. PURPOSE AND INTENT

The purpose and intent of this Chapter is to establish the process for the review of all development within the coastal zone of the City of Malibu to ensure that it will be consistent with the provisions of the City of Malibu Local Coastal Program, the California Coastal Act and the California Code of Regulations Title 14 Division 5.5.

13.2 APPLICABILITY

All properties within the City of Malibu are located within the coastal zone as defined in the California Coastal Act and are subject to the provisions of this Chapter. Where the standards or procedures described in this Chapter for issuing Coastal Development Permits conflict with any other permit procedures in the City's General Plan or other City-adopted plan, resolution or ordinance not included in the LCP, and it is not possible for the development to comply with both the LCP and other plans, resolutions or ordinances, the standards or procedures described herein shall take precedence.

13.3. PERMIT REQUIRED

A. Except as otherwise provided in this Chapter, any person wishing to perform or undertake any development in the coastal zone, other than a facility subject to Public Resources Code Section 25500, shall obtain a coastal development permit in accordance with the provisions of this Chapter. Development undertaken pursuant to a coastal development permit shall conform to the plans, specification, terms and conditions of the permit. The requirements for obtaining a coastal development permit shall be in addition to requirements to obtain any other permits or approvals required by other city ordinances or codes or from any state, regional or local agency. Subsequent to the certification of the LCP, the City shall immediately assume coastal development permitting authority and no application for a coastal development permit shall be deemed approved if the City fails to take timely action to approve or deny the application for a coastal development permit.

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.

C. The review of a Coastal Development Permit application may be combined with and/or processed concurrently with the review of any other discretionary permit application required by other City ordinances. When an application for a Planned Development is proposed, the City shall not grant any discretionary approval of a planned development that conflicts with any policy or standard of the LCP, including the land use designations. The City may request certification of an LCP amendment to accommodate a proposed planned development in accordance with the procedures in Chapter 19 of the Malibu LIP (LCP amendment procedures). Neither the Preliminary Development Plan nor the Final Development Plan shall be effective until or unless a coastal development permit is approved that authorizes the development included in the Plan.

D. All development proposed or undertaken on tidelands, submerged lands or on public trust lands, whether filled or unfilled, or within any state university or college within the coastal zone shall require a permit issued by the California Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.

E. Where a proposed project straddles the boundaries of the City of Malibu and another local jurisdiction or where a proposed project straddles the boundaries of the City's Coastal Development Permit jurisdiction area and the Coastal Commission's retained jurisdiction area, the applicant shall obtain separate Coastal Development Permits from each jurisdiction.

F. Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development. No improvements, repair, modification or additions to such existing development may be approved, unless the City also approves a coastal development permit that authorizes the existing development. The coastal development permit shall only be approved if the existing and proposed development, with any applicable conditions of approval, is consistent with the policies and standards of the LCP.

13.4. EXEMPTIONS

The following projects are exempt from the requirement to obtain a Coastal Development Permit.

13.4.1 Improvements to Existing Single-Family Residences

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms "Improvements to existing single-family residences" includes all fixtures and structures directly attached to the residence and those structures normally associated with a single family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or accessory self-contained residential units.

B. The exemption in (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental impact:

1. Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, or within 50 feet of the edge of a coastal bluff.

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas.

3. The expansion or construction of water wells or septic systems.

4. On property not included in subsection (B)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the City or Coastal Commission, improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to this section or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.

5. In areas which the City or Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.

6. Any improvement to a single-family residence where the development permit issued for the original structure by the Coastal Commission, regional Coastal Commission, or City indicated that any future improvements would require a development permit.

13.4.2 Repair and Maintenance Activities

A. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities.

B. The exemption in Section 13.4.2 (A) of the Malibu LIP shall not apply to the following extraordinary methods of repair and maintenance which require a coastal development permit because they involve a risk of adverse environmental impact:

1. Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

   a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

   b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective works;

   c. The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or

d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.

2. Any method of routine maintenance dredging that involves:

a. The dredging of 100,000 cubic yards or more within a twelve (12) month period;

b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or

c. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the City or the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

C. All repair and maintenance activities governed by Section 13.4.2 (B) shall be subject to the LCP permit regulations, including but not limited to the regulations governing administrative and emergency permits. The provisions of Section 13.4.2 (B) shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Coastal Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.

D. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, (as measured by 50% of the exterior walls), seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance but instead constitutes a replacement structure requiring a coastal development permit.

13.4.3 Other Improvements

A. Improvements to any structure other than a single-family residence or a public works facility except as noted below in Section 13.4.3 (B) of the Malibu LIP. For purposes of this section, where there is an ex-

isting structure, other than a single-family residence or public works facility, the following shall be considered a part of that structure:

1. All fixtures and other structures directly attached to the structure.

2. Landscaping on the lot.

B. The exemption in 13.4.3 (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policies of the LCP.

1. Improvement to any structure if the structure or the improvement is located: on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; or within 50 feet of the edge of a coastal bluff;

2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, or in an environmentally sensitive habitat area;

3. The expansion or construction of water wells or septic systems;

4. On property not included in subsection 13.4.3 (B)(1) of the Malibu LIP above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the LUP, an improvement that would result in an increase of 10 percent or more of internal floor area of the existing structure, or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to section (A) above or Public Resources Code section 30610(b), and/or increase in height by more than 10 percent of an existing structure;

5. In areas which the City or the Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for protection of coastal recreation or public recreational use, the construction of any specified major water using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system;

6. Any improvement to a structure where the coastal development permit issued for the original structure by the City or the Coastal Commission indicated that any future improvements would require a development permit;

7. Any improvement to a structure which changes the intensity of use of the structure;

8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

13.4.4 Categorically Excluded Development

Projects pursuant to a Categorical Exclusion Order as certified by the California Coastal Commission pursuant to Public Resources Code 30610(e).

13.4.5 Utility Connections

The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development which has been granted a valid Coastal Development Permit; provided, however, that the City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

13.4.6 Structures Destroyed by Natural Disaster

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 is for the same use as the destroyed structure;

B. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and

C. 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.

13.4.7 Time Share Conversions

Any activity anywhere in the City’s coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this ordinance, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this ordinance. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

13.4.8 Repair, Maintenance and Utility Hook-Up Exclusions

Repair and maintenance activities, specifically described in the document adopted by the Coastal Commission on September 5, 1978 titled "Repair, Maintenance and Utility Hook-Up Exclusions from Permit Requirements" unless the proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands or public views to the ocean. The following activity has been determined by the certified LUP to have a risk of substantial adverse impacts and is therefore not exempt:

The removal of vegetation from, or other minor road improvements, to a lawfully established public or private road on private property which has not been maintained for a period of 5 years.

13.4.9 Temporary Event

Temporary events as defined in this chapter and which meet all of the criteria in (A)—(D).

A. The event will not occur between Memorial Day weekend and Labor Day or if proposed in this period will be of less than one day in duration including set-up and take-down; and

B. The event will not occupy any portion of a publicly or privately owned sandy beach or park area; public pier, public beach parking areas or the location is remote with minimal demand for public use, and there is no potential for adverse effect of sensitive coastal resources; and

C. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or, if a fee is charged, it is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use.

D. The proposed event has been reviewed in advance by the Planning Manager and the Manager determined that it meets the following criteria:

1. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or together with other temporary events scheduled before or after the particular event;

2. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in the LIP;

3. The event has not previously required a coastal development permit to address and monitor associated impacts to coastal resources.

For all other proposed temporary events, a coastal development permit must be obtained prior to the event.

E. Signs Associated with Exempt Temporary Events. Any temporary signs associated with any temporary event shall be consistent with provisions of Section 3.15 of the Malibu LIP. (Ord. 303 § 3, 2007)

13.4.10 Record of Permit Exemptions

The Planning Manager shall maintain a record of all those developments within the Coastal Zone that have been authorized as being exempt from the requirement for a Coastal Development Permit pursuant to this Chapter. This record shall be available for review by members of the public and representatives of the California Coastal Commission. The Record of Exemption shall include the name of the applicant, the location of the project, and a brief description of the project. (Ord. 303 § 3, 2007)

13.5. NONCONFORMING USE OR STRUCTURES

A. This section (13.5) shall apply to the following: (1) any existing and lawfully established or lawfully authorized use of land or to any existing and lawfully established or lawfully authorized buildings and other structures that do not conform to the policies and development standards of the certified LCP, or any subsequent amendments thereto and (2) development that is not exempt from the coastal development permit requirements pursuant to Section 13.4 of the Malibu LIP (Exemptions). Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development, is not subject to the provisions of Section 13.5, but is subject to the provisions of Section 13.3 (F) of the Malibu LIP.

B. Non-conforming uses as defined by 13.5(A) of the Malibu LIP shall not be intensified, or expanded into additional locations or structures.

C. Non-conforming structures as defined by 13.5(A) of the Malibu LIP may be repaired and maintained if it does not result in enlargement or expansion of the structure. However, demolition and/or reconstruction that results in replacement of more than 50 percent of non-conforming structures, including all demolition and/or reconstruction that was undertaken after certification of the LCP, is not permitted unless such structures are brought into conformance with the policies and standards of the LCP.

D. Additions and/or improvements to non-conforming structures may be authorized, provided that the additions and/or improvements themselves comply with the current policies and standards of the LCP, except as provided in Section 13.5 (F) of the Malibu LIP.

E. For non-conforming structures located on a blufftop or on the beach that do not comply with the setbacks required for new development on a blufftop or beach, additions that increase the size of the structure by 50 percent or more, including all additions that were undertaken after certification of the LCP, shall not be authorized unless such structures are brought into conformance with the policies and standards of the LCP.

F. If a nonconforming use or structure as defined by 13.5(A) of the Malibu LIP is damaged or destroyed by natural disaster, replacement shall be subject to provisions of 13.4.6 of the Malibu LIP (Structures Destroyed by Natural Disaster).

G. If any nonconforming use as defined by 13.5 (A) of the Malibu LIP is abandoned for a continuous period of not less than 6 months, any subsequent use of such land or the structure in which the use was located shall be in conformity with the regulations specified by the LCP for the district in which such land is located.

13.6. APPLICATION REQUIREMENTS AND FEES

13.6.1 Filing Procedures

A. Application for a coastal development permit and amendments to coastal development permits shall be made to the Planning or Building Department on an application form provided by the Department, together with all required plans, maps, elevations, reports and any such supporting information deemed necessary by the Planning Department or any other ordinance contained in the certified LCP to adequately assess and evaluate the proposed project for consistency with the LCP. Application for a coastal development permit may be submitted concurrently with other city permits required by the City Municipal Code. The application may include a fee set by the City Council.

B. Following submittal of an application, the Planning Department shall review the application for completeness. Within 30 calendar days from submittal, the Planning Department shall notify the applicant in writing of which parts of the application are incomplete and describe the specific materials needed to complete the application. Not later than 30 days after receipt of the requested materials, the Planning Department shall determine whether the submittal of the requested materials is complete and transmit that determination to the applicant. If no determination of completeness is provided to the applicant within 30 days of submittal, the application will be deemed complete. Any application for a coastal development permit shall not be determined to be complete and shall not be filed until and unless the applicable requirements of sections 13.6.2, 13.6.3 and 13.6.4 of the Malibu LIP have been met. Until such application is determined to be complete by the Planning Department, no action shall be taken on it by the Planning Department.

C. To the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application. The Planning Manager shall not accept for filing a second application for development which is the subject of a permit application already pending before the City. This section shall not limit the right of an applicant to amend a pending application.

D. The Planning Manager shall not accept for filing an application for development on a lot or parcel or portion thereof which is the subject of a pending proposal for an adjustment to the boundary of the coastal zone pursuant to Public Resources Code section 30103(b) of the Coastal Act. (Ord. 303 § 3, 2007)

13.6.2 Proof of Ownership or Owner's Consent

A. In addition to other information required to be submitted with an application, applicants must prove that they own the property which is the subject of the application or provide the City with written consent from the owner for the proposed development for the City to file the application.

B. Applicants for development along the shoreline property or fronting a beach shall submit written evidence of a review and determination from the California State Lands Commission relative to the project's location to or impact upon the boundary between public tidelands and private property.

C. Where the applicant for a Coastal Development Permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the City shall not require the holder or owner of any superior interest in the property to join as a co-applicant. All holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant.

D. Prior to the issuance of a Coastal Development Permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

13.6.3 Application Fees

The City Council may, by resolution, establish a schedule of fees for coastal development permits, approvals, and other matters pertaining to this Chapter. The schedule of fees may be changed or modified only by resolution of the City Council. Until all applicable fees have been paid in full, no application shall be deemed complete and no action shall be taken on any application, appeal or other matter pertaining to this Chapter for which a fee is required.

13.6.4 Application Form and Information Requirements

The coastal development permit application form shall require submittal of at least the following items:

A. A description and documentation of the applicant's legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, authority to acquire the specific property by eminent domain.

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. In addition, a listing of any prior coastal development permits issued for the property shall be provided.

C. An adequate description including maps, plans, photographs, etc., of the proposed development, project site and vicinity sufficient to determine whether the project complies with all relevant policies of the Malibu LCP, including sufficient information concerning land and water areas in the vicinity of the site of the proposed project, (whether or not owned or controlled by the applicant) so that the City will be adequately informed as to present uses and plans, both public and private.

D. A site plan, to scale, showing:

1. Existing and proposed property lines on the site, including all dedications, easements or recorded offers to dedicate easements, deed restrictions over or adjacent to the site and documentation for such recorded instruments.

2. Existing and proposed topography, at a contour interval appropriate to the size of the site to be developed;

3. All existing and proposed structures, roads, utilities lines, signs, fences and other improvements; and

4. Major natural and man-made landscape features, including location, type, size and quantification of acreage of any trees or other natural vegetation to be planted or to be removed or made subject to thinning, irrigation or other modification by the proposed project including building pad and road/driveway areas.

5. Location and amount of any fuel modification or brush clearance that would be required on the site and on adjacent properties to comply with fire safety requirements.

E. Except on parcels within existing, developed neighborhoods where any new structures will be located over 200 feet from ESHA as mapped on the ESHA overlay map, an inventory of the plant and animal species present on the project site, or those known or expected to be present on the project site at other times of the year, prepared by a qualified biologist, or resource expert. The inventory shall include an identification of any species present that have been designated as rare, threatened, or endangered species under State or Federal law. Where the initial site inventory indicates the presence or potential for sensitive species or habitat on the project site, the submittal of a detailed biological assessment of the site is required, consistent with the provisions of Chapter 4 of the Malibu LIP.

F. Building elevations, showing:

1. All exterior walls

2. Type of roof and other exterior materials and

3. Location and design of roof equipment, trash enclosures, fences, exterior lights, signs and other exterior structures and equipment.

G. Drainage and Erosion Control Plans as required by Chapter 17 of the Malibu LIP (Water Quality).

H. For development relying on an Onsite Wastewater Treatment System, a Septic Plot Plan, prepared by an Environmental Health Specialist that shall include a percolation testing report and septic system design of adequate size, capacity and design to serve the proposed development for the life of the project.

I. For applications for land divisions:

1. Except for proposed parcels that will be connected to the Civic Center Wastewater Treatment Facility, a report prepared by a registered groundwater hydrologist and Environmental Health Specialist that addresses the ability of each proposed building site to accommodate a sewage disposal system, including an analysis of depth to groundwater that addresses seasonal and cyclical variations as well as the adequacy of percolation rates in post- grading conditions (cut or compacted fill); properties that will be connected to the Civic Center Wastewater Treatment Facility shall obtain approval from the City Public Works Department for the connection.

J. For applications for water wells, a groundwater hydrological study that analyzes the individual and cumulative impacts the well may have on groundwater supplies and the potential individual and cumulative impacts the well may have on adjacent or nearby streams, springs, or seeps and their associated riparian habitat.

K. For applications for development located in areas identified by the City or State as archaeologically sensitive, a site survey performed by a qualified archaeologist consistent with the requirements of Chapter 11 of the Malibu LIP, including alternatives that would avoid or minimize impacts to resources and recommended measures to mitigate impacts to resources.

L. For applications for development located in areas visible from public viewing areas, public trails, beaches or scenic roads, a visual analysis as required by Chapter 6 of the Malibu LIP (Scenic and Visual Resource Protection).

M. The description of the development shall also include any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment. For purposes of this section the term "significant adverse impact on the environment" shall be defined as: "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant." (CEQA Guidelines, 14 Cal. Code of Reg. Section 15382).

N. A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application.

O. In addition to full size drawings, maps, photographs, and other exhibits drawn to scale, either one (1) copy of each drawing, map, photograph, or other exhibit approximately 8 1/2 in. by 11 in., or if the applicant desires to distribute exhibits of a larger size, enough copies reasonably required for distribution to those persons on the City's mailing lists and for inspection by the public in the City offices. A reasonable number of additional copies may, at the discretion of the Planning Manager, be required.

P. A list of names and addresses of, and stamped envelopes for, adjacent landowners and residents, and other interested persons as provided in Section 13.12 of the Malibu LIP (Public Notice). The applicant shall provide the City with all of the following:

1. The addresses of all residences, including each residence within an apartment or condominium complex, located within one hundred (100) feet (not including roads) of the perimeter of the parcel of real property of record on which the development is proposed;

2. The addresses of all owners of parcels of real property of record located within one hundred (100) feet (not including roads) of the perimeter of the parcel of real property of record on which the development is proposed, based upon the most recent equalized assessment roll;

3. The names and addresses of all persons known to the applicant to be interested in the application;

4. Stamped envelopes for all addresses on the list prepared pursuant to subsection (a) above. Separate stamped envelopes shall be addressed to "owner," "occupant," or the name of the interested person, as applicable. The applicant shall also place a legend on the front of each envelope including words to the effect of "Important. Public Hearing Notice." The legend shall be legible and of sufficient size to be reasonably noted by the recipient of the envelope.

Q. The Water Quality Checklist as required by Chapter 17 of the Malibu LIP (Water Quality).

R. Any additional information, including identified preliminary approvals by local, state and federal agencies, for specific categories of development or for development proposed for specific geographic areas where otherwise required by specific LCP policies or regulations. This shall include but not be limited to site specific filing requirements specified in: the Public Access Chapter (Ch. 12), the Environmentally Sensitive Habitat Area Overlay Chapter (Ch. 4), the Scenic and Visual Resource Protection Chapter (Ch. 6), the Subdivision Chapter (Ch. 15), the Hazards/Geology Chapter (Ch. 10); the Shoreline and Bluff Development Chapter (Ch. 10), the Archaeological/Cultural Resources Chapter (Ch. 11), or the Water Quality Protection Chapter (Ch. 17) of the Malibu LIP. Where more specific filing requirements are provided for in other Chapters of the Malibu LIP which conflict with the provisions of this Chapter, the more specific provisions shall govern.

S. The application form shall also provide notice to applicants that failure to provide truthful and accurate information necessary to review the permit application or to provide public notice as required by these requirements may result in delay in processing the application or may constitute grounds for revocation of the permit.

T. Any additional information determined by the Planning Manager to be necessary for reviewing and processing of the application.

U. Notwithstanding any other requirements of the LCP, an applicant shall not be required to undertake onsite surveys of properties that are not under the control of the landowner or applicant of the application being filed, if the applicant cannot, after a good faith effort, secure permission from such other landowner for access to the property needed to conduct the study. Should such permission for access not be granted, the application shall include documentation of the effort(s) employed to gain access and the results of such study of the offsite property as can reasonably be conducted without entering the site. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

13.7. ACTION ON COASTAL DEVELOPMENT PERMIT

A. Permits issued under Section 13.13 of the Malibu LIP (Administrative Permits), and any subsequent changes to the administrative permit that are consistent with Section 13.3 of the Malibu LIP, and permits issued under Section 13.14 of the Malibu LIP (Emergency Permits) may be decided upon by the Planning Manager.

B. All other coastal development permits shall be decided upon by the Planning Commission subject to appeal provisions in Section 13.20 of the Malibu LIP (Appeals). Minor changes to the permit may be subsequently decided upon by the Manager 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.

C. Except as provided in Section 13.4 of the Malibu LIP (Emergency Permits), the Environmental Review Board (ERB) shall serve as advisors to the Planning Manager, Planning Commission and City Council for coastal development permits within or adjacent to ESHA as provided in the ESHA Overlay zone or

identified as being ESHA pursuant to provisions of the ESHA Overlay Chapter (Ch. 4) of the Malibu LIP. The ERB shall provide recommendations on the conformance or lack of conformance of the proposed project with the policies of the certified Malibu LUP and may suggest mitigation measures designed to avoid or minimize impacts on environmentally sensitive habitat area resources. (Ord. 303 § 3, 2007)

13.8. CONDITIONS

Approval of a coastal development permit shall be subject to conditions as necessary to ensure conformance with, and implementation of, the certified Local Coastal Program. Modification and resubmittal of project plans, drawings and specifications, preparation of additional plans, or recordation of documents may be required to ensure conformance with the Malibu Local Coastal Program. When modifications and resubmittal of plans, additional plans, or recorded documents are required, issuance of the permit shall be deferred for a sufficient period of time to allow the Planning Manager to determine if the modified project, the additional plans, or the recorded documents comply with the conditions of approval of the permit. (Ord. 303 § 3, 2007)

13.9. FINDINGS

All decisions on coastal development permits shall be accompanied by written findings:

A. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with certified City of Malibu Local Coastal Program; and

B. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

C. The project is the least environmentally damaging alternative.

D. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.

13.10. DETERMINING NOTICE AND HEARING PROCEDURES

At the time a complete application for a Coastal Development Permit is made, the Planning Manager shall determine and inform the applicant of the applicable review procedures as established herein. The determinations required by this section shall be made based on the provisions of this chapter and with reference to the certified Local Coastal Program, including any maps, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program.

A. Types of Applications. The Planning Manager shall first determine whether the proposed development is:

1. Subject to the requirement for a Coastal Development Permit or permit amendment from the Coastal Commission;

2. Appealable to the Coastal Commission consistent with Chapter 2 of the Malibu LIP (Definitions);

3. Exempt from the Coastal Development Permit requirements as defined in Section 13.4 of the Malibu LIP;

4. Subject to the requirement of securing a Coastal Development Permit to be issued by the City. (Ord. 303 § 3, 2007)

13.10.1 Appeals of Determination of Permit Type and Jurisdiction

Where an applicant, interested person, or the city has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is non-appealable or appealable:

A. The Planning Manager or his or her designee shall make its determination as to what type of development is being proposed (i.e. appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

B. If the determination of the Planning Manager is challenged by the applicant or an interested person, or if the City wishes to have a Coastal Commission determination as to the appropriate designation, the Planning Manager shall notify the District Director of the South Central Coast District Office of the Coastal Commission by telephone or in writing of the dispute/question and shall request the Executive Director's determination as to whether the development is categorically excluded, non-appealable or appealable.

C. The Executive Director of the Coastal Commission shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable.

D. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City Planning Manager's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the Executive Director's determination. (Ord. 303 § 3, 2007)

13.10.2 Jurisdiction

A. The City's jurisdiction over Coastal Development Permits does not include tidelands, submerged lands, and public trust lands as described in Section 30519(b) of the Public Resources Code and described as areas of Coastal Commission Permit Jurisdiction illustrated on the Local Coastal Program Post-Certification Permit and Jurisdiction Map as amended.

B. The Commission retains authority over coastal development permits issued by the Commission including condition compliance. Where either new development, or a modification to existing development, is proposed on a site where development was authorized in a Commission-issued coastal development permit either prior to certification of the LCP or through a de novo action on an appeal of a city-approved coastal development permit and the permit has not expired or been forfeited, the applicant shall apply to the City for the coastal development permit except for:

1. Requests for extension, reconsideration and revocation of the Commission-issued permits;

2. Development that would lessen or negate the purpose of any specific permit condition, any mitigation required by recorded documents, any recorded offer to dedicate or grant of easement or any restriction/limitation or other mitigation incorporated through the project description by the permittee, of a Commission-issued coastal permit.

In any of these circumstances, the applicant must seek to file an application with the Coastal Commission for an amendment to the Commission-issued coastal development permit and authorization for the proposed new development or modification to existing development. The Coastal Commission will determine whether the application for amendment shall be accepted for filing pursuant to the provisions of Title 14 California Code of Regulations, Section 13166.

C. Any proposed development within the coastal zone that is subject to the City's jurisdiction upon certification of the LCP and that the City preliminarily approved before effective certification of the Malibu Local Coastal Program but for which a complete application has not been filed with the Coastal Commission for approval shall be resubmitted to the City through an application pursuant to this Certified Local Coastal Program. The standard for review for such an application shall be the requirements of this Certified Local Coastal Program. Any application fee paid to the Coastal Commission shall be refunded to the applicant.

D. Any proposed development within the certified area which the City preliminarily approved before effective certification of the Local Coastal Program and for which a complete application has been filed complete with the Coastal Commission may, at the option of the applicant, remain with the Coastal Commission for completion of review. Coastal Commission review of any such application shall determine consistency with the Certified Local Coastal Program. Projects which elect to obtain a coastal development permit from the Coastal Commission will remain under the jurisdiction of the Commission as set forth in Section 13.10.2 (B) of the Malibu LIP above.

E. Alternatively, the applicant may withdraw the application filed with the Coastal Commission and re-submit it to the City through an application pursuant to the requirements of this Certified Local Coastal Program. The standard of review for such an application shall be the requirements of this Certified Local Coastal Program.

F. Upon effective certification of a Local Coastal Program except as provided under A and B of this section, no applications for development shall be accepted by the Coastal Commission for development within the certified area.

13.11. PUBLIC HEARING REQUIRED AND PUBLIC COMMENT

A. At least one public hearing shall be required on all appealable development as defined in Chapter 2 of the Malibu LIP (Definitions).

1. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13.12 of the Malibu LIP. The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

2. If a decision on a development permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Section 13.12 of the Malibu LIP, nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Section 13565 of the California Code of Regulations.

B. Any person may submit written comments to the Planning Manager on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the Planning Manager who shall forward them to the appropriate person, commission, board or the Council and to the applicant. (Ord. 303 § 3, 2007)

13.12. PUBLIC NOTICE REQUIRED

13.12.1 Notice of Appealable Developments

A. Within ten (10) calendar days of accepting an application for an appealable coastal development permit or at least seven (7) calendar days prior to the first public hearing on the development proposal, the City shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to:

1. Each applicant;

2. All persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction;

3. All property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed;

4. Local, regional and state agencies known to be interested in the project including but not limited to: Los Angeles County, Ventura County, NPS, SMMC, CDPR, CDFG, NMFS, USFWS;

5. The South Central Coast District of the Coastal Commission.

B. The notice shall contain the following information:

1. A statement that the development is within the coastal zone;

2. The date of filing of the application and the name of the applicant;

3. The number assigned to the application;

4. A description of the development and its proposed location;

5. The date, time and place at which the application will be heard by the city approving authority;

6. A brief description of the general procedure concerning the conduct of hearing and local actions;

7. The procedures for filing local and Coastal Commission appeals, including any local fees required.

13.12.2 Notice of Non-Appealable Developments

A. Notice of an application for a coastal development permit that is not appealable but that requires a public hearing under local ordinance shall be provided as follows:

Within ten (10) calendar days prior to the City's hearing on the application, notice shall be provided as follows:

1. If the matter is heard by the Planning Commission, notice shall be published in a newspaper of general circulation;

2. Notice by first class mail to any person who has filed a written request to be on the mailing list for that development project or for coastal decisions within the City;

3. Notice by first class mail to all property owners within 300 feet;

4. Notice by first class mail to residents within 100 feet of the proposed project;

5. Notice by first class mail to local, regional and state agencies known to be interested in the project including but not limited to: Los Angeles County, Ventura County, NPS, SMMC, CDPR, CDFG, NMFS, USFWS;

6. Notice by first class mail to the South Central Coast District of the Coastal Commission.

B. Notice of an application for a coastal development permit that is not appealable and that does not require a public hearing under local ordinance shall be provided as follows:

Within ten (10) calendar days of accepting an application for a non-appealable coastal development permit or at least seven (7) calendar days prior to the City's decision on the application, notice shall be provided as follows:

1. Notice by first class mail to any person who has filed a written request to be on the mailing list for that development project or for coastal decisions within the City;

2. Notice by first class mail to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed;

3. Notice by first class mail to local, regional and state agencies known to be interested in the project including but not limited to: Los Angeles County, Ventura County, NPS, SMMC, CDPR, CDFG, NMFS, USFWS;

4. Notice by first class mail to the South Central Coast District of the Coastal Commission.

C. The Notice required by both 13.12.2(A) and 13.12.2(B) shall contain the following information:

1. A statement that the development is within the coastal zone;

2. The date of filing of the application and the name of the applicant;

3. The number assigned to the application;

4. A description of development and its proposed location;

5. The date the application will be acted upon by the City's governing body or decision-maker;

6. The general procedure of the City concerning the submission of public comments either in writing or orally prior to the City's decision;

7. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the City's decision.

13.13. ADMINISTRATIVE PERMITS

13.13.1 Applicability

A. The Planning Manager may process consistent with the procedures in this Chapter any coastal development permit application for the specific uses identified below, except a proposed coastal development permit that is appealable or is within the Commission's continuing jurisdiction as defined in Chapter 2 of the Malibu LIP (Definitions).

1. Improvements to any existing structure;

2. Any single-family dwelling;

3. Lot mergers;

4. Any development of four dwelling units or less that does not require demolition, and any other developments not in excess of one hundred thousand dollars ($100,000) other than any division of land;

5. Water wells.

B. Notwithstanding any other provisions of the LCP, attached or detached second dwelling units shall be processed as administrative permits, except that the approval of such permits shall be appealable to the Coastal Commission if the project is located in the appealable zone. (Ord. 335 § 3, 2009; Ord. 303 § 3, 2007)

13.13.2 Filing Procedures

A. Application for administrative permit shall be filed consistent with procedures for regular coastal development permits according to Section 13.6 of the Malibu LIP (Applications) of this Chapter. The form shall allow the applicant an opportunity to state that in his or her opinion the work applied for falls within the criteria established by this section.

B. Applications Not Thought to Be Administrative.

If the Planning Manager receives an application that is asserted to be for improvements or other development within the criteria established pursuant to this section and Public Resources Code Section

30624 and if the Planning Manager finds that the application does not qualify as such, he or she shall notify the applicant that the application cannot be processed administratively and must comply with regular permit procedures as provided in this chapter. The Planning Manager, with the concurrence of the applicant, may accept the application for filing as a regular permit pursuant to this chapter and shall adjust the application fees accordingly.

13.13.3 Public Notice

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 Manager shall refuse to file the application.

Notice of administrative coastal development permits shall also be made in the manner specified for non-appealable developments in section 13.12 of the Malibu LIP. (Ord. 303 § 3, 2007)

13.13.4 Criteria for Granting Administrative Permits

A. The Planning Manager may approve or modify an application for improvements or other development governed by this section on the same grounds that the planning commission may approve an ordinary application and may include reasonable terms and conditions required for the development to conform with the policies of the LCP and the public access and recreation policies of Chapter 3 of the California Coastal Act of 1976.

B. Permits issued for such developments shall be governed by the provisions of Sections 13156 (format) and 13158 (notice of receipt and acknowledgement) of the California Code of Regulations concerning the format, receipt, and acknowledgment of permits, except that references to "Commission Resolution" shall be deemed to refer to the Planning Manager's determination. A permit issued pursuant to this section and Public Resources Code Section 30624 shall contain a statement that it will not become effective until completion of the planning commission review of the permit pursuant to Section 13153. (Ord. 303 § 3, 2007)

13.13.5 Refusal to Grant - Notice to Applicant

If the Planning Manager determines not to grant an administrative permit based on a properly filed application under this section, the Planning Manager shall promptly mail written notice to this effect to the applicant with an explanation of the reasons for this determination. (Ord. 303 § 3, 2007)

13.13.6 Reports on Administrative Permits

The Planning Manager shall report in writing to the Planning Commission at each meeting the administrative coastal development permits that were approved under this Section prior to the time of the mailing of

the staff reports or recommendations for the meeting, with sufficient description of the work authorized to allow the Planning Commission to understand the development proposed to be undertaken. Copies of this report shall be available at the meeting and shall have been mailed to the planning commission and to all those persons wishing to receive such notification at the time of the regular mailing for the meeting and to the Coastal Commission. Any such permits approved following the deadline for the mailing shall be included in the report for the next succeeding meeting. If the majority of the Planning Commission members present so request, the issuance of an administrative permit governed by this section and Public Resources Code Section 30624 shall not become effective, but shall, if the applicant wishes to pursue the application, be treated as a regular coastal permit application under Section 13.6 of the Malibu LIP, subject to the provisions for hearing and appeal set forth in Sections 13.11 and 13.12 of the Malibu LIP. (Ord. 303 § 3, 2007)

13.14. EMERGENCY PERMITS

In the event of an emergency as defined in Chapter 2 of the Malibu LIP (Definitions), an application for an Emergency Coastal Development Permit ("emergency permit") shall be made to the Planning Manager. The Planning Manager may issue an emergency permit in accordance with Coastal Act Section 30624 and the following:

A. Applications in cases of emergencies shall be made to the Planning Manager by letter or facsimile during business hours if time allows, by telephone or in person if time does not allow.

B. The information to be included in the application shall include the following:

1. The nature of the emergency;

2. The cause of the emergency, insofar as this can be established;

3. The location of the emergency;

4. The remedial, protective or preventative work required to deal with the emergency; and

5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action.

C. The Planning Manager shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

D. Prior to issuance of an emergency coastal development permit, when feasible, the Planning Manager shall notify, and coordinate with, the South Central Coast District office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone.

E. The Planning Manager shall provide public notice of the proposed emergency, with the extent and type of notice determined on the basis of the nature of the emergency itself. The Planning Manager may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the Planning Manager finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for administrative permits or for regular permits administered pursuant to the provisions of this chapter and Public Resources Code Section 30600.5 and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;

2. Public comment on the proposed emergency action has been reviewed if time allows; and

3. The work proposed would be temporary and consistent with the requirements of the City's certified LCP.

4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency.

5. The Planning Manager shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a coastal development permit application must be reviewed by the California Coastal Commission pursuant to provisions of Public Resources Code Section 30600.5.

F. The emergency permit shall be a written document that includes the following information:

1. The date of issuance;

2. An expiration date;

3. The scope of work to be performed;

4. Terms and conditions of the permit;

5. A provision stating that within 90 days of issuance of the emergency permit, a regular coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter;

6. A provision stating that any development or structures constructed pursuant to an emergency permit shall be considered temporary until authorized by a follow-up regular coastal development permit and that issuance of an emergency coastal development permit shall not constitute an entitlement to the erection of permanent development or structures;

7. A provision that states that: The development authorized in the emergency permit must be removed unless a complete application for a regular coastal development permit is filed within 90 days of approval of the emergency permit and said regular permit is approved. If a regular coastal development permit authorizing permanent retention of the development is denied, then the development that was authorized in the emergency permit, or the denied portion of the development, must be removed.

G. The emergency permit may contain conditions for removal of development or structures if they are not authorized in a regular coastal development permit, or the emergency permit may require that a subsequent permit must be obtained to authorize the removal. (Ord. 303 § 3, 2007)

13.14.1 Reporting of Emergency Permits

A. The Planning Manager shall report in writing to the City Council and to the California Coastal Commission at each meeting the emergency permits applied for or issued since the last report, with a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time that application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing.

B. All emergency permits issued after completion of the agenda for the meeting shall be briefly described by the Planning Manager at the meetings and the written report required by Section 13.14.1 (A) of the Malibu LIP shall be distributed prior to the next succeeding meeting.

C. The report of the Planning Manager shall be informational only; the decision to issue the emergency permit is solely at the discretion of the Planning Manager. (Ord. 303 § 3, 2007)

13.15. FINALITY OF CITY ACTION

A City decision on an application for a coastal development permit shall not be deemed complete until (1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act, and (2) when all local rights of appeal have been exhausted.

13.16. NOTICE OF FINAL LOCAL GOVERNMENT ACTION

A. Notice after Final City Action. Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13.15 of the Malibu LIP, the City shall notify by first class mail the South Central Coast District Office of the Coastal Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the local government (or, where required, who paid a reasonable fee to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

B. Pursuant to Public Resources Code Section 30166.5, notwithstanding the requirements of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, once the City assumes coastal development permitting authority pursuant to Public Resources Code Section 30166.5, no application for a coastal development permit shall be deemed approved if the city fails to take timely action to approve or deny the application.

13.17. EFFECTIVE DATE OF CITY ACTION

The City's final decision on an application for a coastal development permit that is appealable to the Coastal Commission shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired unless either of the following occur:

A. An appeal is filed in accordance with Section 13.20 of the Malibu LIP (Appeals);

B. The notice of final local government action does not meet the requirements of Section 13.16 of the Malibu LIP.

When either of the circumstances in A or B occur, the Coastal Commission shall, within five (5) calendar days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended. (Ord. 303 § 3, 2007)

13.18. FORMAT OF PERMITS

13.18.1 Content of Permits

Permits shall be issued in a form signed by the Planning Manager, and shall include:

A. A statement setting out the reasons for the approval of the permit;

B. Any other language or drawings, in full or incorporated by reference, that are consistent with the decision, and required to clarify or facilitate carrying out the intent of the City;

C. Any conditions approved by the City;

D. Such standard provisions as shall have been approved by resolution of the city;

E. A statement that the permit runs with the land and binds all future owners of the property;

F. A statement that the permit shall not become effective until the city receipt of acknowledgment as provided in Section 13.18.2 of the Malibu LIP.

G. The time for commencement of the approved development except that where the city has not imposed any specific time for commencement of development pursuant to a permit, the time for com-

mencement shall be two years from the date of the city vote upon the application. Each permit shall contain a statement that any request for an extension of the time of commencement must be applied for prior to expiration of the permit. (Ord. 303 § 3, 2007)

13.18.2 Notice of Receipt and Acknowledgment

A. Development shall not commence until an approved permit becomes effective.

B. No approved permit shall become effective until a copy of the permit has been returned to the city, upon which copy all permittees or authorized agent(s) have acknowledged that they have received a copy of the permit and have accepted its contents.

C. Each permit approved by the city shall be issued to the applicant with a blank acknowledgment to be signed by each permittee.

D. The acknowledgment should be returned within ten (10) working days following issuance of the permit.

E. A permit shall not be issued pursuant to this section unless the applicant has satisfied all prior to issuance conditions. Prior to issuance conditions are those conditions that are identified in the permit as conditions that must be complied with prior to issuance of the permit. After approval of a permit, the Planning Manager shall notify the permit applicant of those conditions that have been designated as prior to issuance conditions. (LCPA 05-001 § 3 (part), 2006)

13.19. PROCEDURES FOR RECORDATION OF LEGAL DOCUMENTS

All coastal development permits subject to conditions of approval pertaining to public access and open space or conservation easements shall be subject to either of the following procedures:

A. The executive director of the Coastal Commission shall review and approve all legal documents specified in the conditions of approval of a coastal development permit for public access and conservation/open space easements.

1. Upon completion of permit review by the City and prior to the issuance of the permit, the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents to the executive director of the Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies;

2. The executive director of the Commission shall have fifteen (15) working days from receipt of the documents in which to complete the review and notify the applicant of recommended revisions if any;

3. The City may issue the permit upon expiration of the fifteen (15) working day period if notification of inadequacy has not been received by the City within that time period;

4. If the executive director has recommended revisions to the applicant, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the executive director; or

B. If the City requests, the Commission shall delegate the authority to process the recordation of the necessary legal documents to the City if the requirements of 14 Cal. Code of Regulations, section 13574(b) are met. If this authority is delegated, upon completion of the recordation of the documents, the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the Executive Director of the Commission.

13.20. APPEALS

Development pursuant to an approved coastal development permit shall not commence until the coastal development permit is effective. The coastal development permit is not effective until all appeals, including those to the Coastal Commission, have been exhausted. In the event that the Coastal Commission denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.

13.20.1 Local Appeals

A. A decision or any portion of the decision made by the Planning Manager under the provisions of this Chapter may be appealed to the Planning Commission by an aggrieved person as defined in Chapter 2 of the Malibu LIP (Definitions). Any decision made by the Planning Commission may be appealed by an aggrieved person to the City Council.

B. Appeals shall be addressed to the appellate body on a form prescribed by such body, and shall state the basis of the appeal. An appeal shall be filed with the City Clerk within ten (10) days following the date of action for which appeal is made. Appeals may be accompanied by the filing fee as specified by the City Council, and shall be processed and noticed in the same manner as the original coastal development permit application.

C. A copy of the appeal shall be sent by the City to the applicant by certified mail and to the address listed on the application if it is different, within one week of its filing.

D. Upon receipt in proper form of an appeal, the appeal shall be set for the appropriate hearing body.

E. Public notice of an appeal hearing shall conform to the manner in which the original notice was given.

F. The Planning Commission and City Council, respectively, may, upon the affirmative vote of a majority of its members, appeal a decision made by the Manager or Planning Commission under the provisions of this Chapter. There shall be no appeal fee for such an appeal brought by either the Planning Commission or the City Council. (Ord. 303 § 3, 2007)

13.20.2 Appeals to the Coastal Commission

A. Within ten (10) working days of Coastal Commission receipt of the notice of final action, an appealable coastal development permit, as defined in Chapter 2 of the Malibu LIP (Definitions), may be appealed to the Coastal Commission by an aggrieved person who has exhausted local appeals or by any two members of the Coastal Commission.

B. For appealable coastal development permits as defined in Chapter 2 of the Malibu LIP (Definitions), an appellant shall be deemed to have exhausted local appeals and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the appellate bodies identified in this Chapter. Exhaustion of all local appeals shall not be required if any of the following occur; however, no appeal shall be accepted by the Coastal Commission until a Notice of Final Action is received in accordance with Section 13.16.

1. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in this Chapter.

2. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.

3. An appellant was denied the right of local appeal because City notice and hearing procedures for the development did not comply with the provisions of this Chapter.

4. The City charges an appeal fee for the filing or processing of local appeals.

C. Where an appealable coastal development permit is appealed by any two (2) members of the Coastal Commission, there shall be no requirement of exhaustion of local appeals; however, no appeal shall be filed until a Notice of Final Action is received by the Coastal Commission in accordance with Section 13.16. Provided, however, that the City may provide, by ordinance, that notice of Coastal Commissioner appeals may be transmitted to the City Council, and the appeal to the Coastal Commission may be suspended pending a decision on the merits by the City Council. If the decision of the City Council modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal from that decision. (Ord. 303 § 3, 2007)

13.21. EXPIRATION OF COASTAL DEVELOPMENT PERMIT

Unless the permit states otherwise, a Coastal Development Permit shall expire two years from its date of approval if the development has not commenced during that time. The approving authority may grant a reasonable extension of time for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the two-year period.

13.22. PERMIT AMENDMENTS

Upon application by the permittee, a Coastal Development Permit may be amended or extended. Application for an amendment shall be accomplished in the same manner specified by this chapter for the initial application of the Coastal Development Permit. All sections of this Chapter dealing with the specific type of Coastal Development Permit shall apply to permit amendments.

13.23. REAPPLICATION

An application or local appeal may be denied and no further application for the denied request shall be filed in the ensuing twelve months, except as otherwise specified at the same time of denial, unless the application has been substantially modified to address the concerns leading to the original denial. (Ord. 303 § 3, 2007)

13.24. REVOCATION

If the Planning Manager initiates revocation proceedings as provided below, the Planning Commission shall hold a public hearing upon the question of revocation of a coastal development permit granted under or pursuant to the provisions of this Chapter. Notice of such hearing shall be the same as would be required for a new coastal development permit. (Ord. 303 § 3, 2007)

13.24.1. Grounds for Revocation of a Permit

The grounds for revocation of a permit shall be:

A. Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the City finds that accurate and complete information would have caused additional or different conditions on a permit or denial of an application;

B. Failure to comply with the noticing provisions of this Chapter where the views of the person(s) not notified were not otherwise made known to the City and could have caused the City to require additional or different conditions on a permit or deny an application.

13.24.2 Initiation of Proceedings

Any person who did not have an opportunity to fully participate in the original permit proceedings because of the reasons stated in (2) above, may request revocation of a permit by application to the Planning Manager specifying, with particularity, the grounds for revocation. The Planning Manager shall review the stated grounds for revocation and, unless the request is patently frivolous and without merit, shall initiate revocation proceedings. The Planning Manager may initiate revocation proceedings on his or her own motion when the grounds for revocation have been established pursuant to the provisions of Section 13.24.1 of the Malibu LIP. (Ord. 303 § 3, 2007)

13.24.3 Suspension of Permit

Where the Planning Manager determines in accord with Section 13.24.1 of the Malibu LIP that grounds exist for revocation of a permit, the operation of the permit shall be automatically suspended until the Planning Commission votes to deny the request for revocation. The Planning Manager shall notify the permittee by mailing a copy of the request for revocation and a summary of the procedures set forth in this article, to the address shown in the permit application. The Planning Manager shall also advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the certified LCP and the California Coastal Act of 1976 and subject to the penalties set forth in Public Resources Code, Sections 30820 through 30823. (Ord. 303 § 3, 2007)

13.24.4 Hearing on Revocation

A. At the next regularly scheduled meeting, and after notice to the permittee and any persons the Planning Manager has reason to know would be interested in the permit or revocation, the Planning Manager shall report the request for revocation to the Planning Commission with a preliminary recommendation on the merits of the request.

B. The person requesting the revocation shall be afforded a reasonable time to present the request and the permittee shall be afforded a like time for rebuttal.

C. The Planning Commission shall ordinarily vote on the request at the same meeting, but the vote may be postponed to a subsequent meeting if the commission wishes the Manager to perform further investigation.

D. A permit may be revoked by a majority vote of the members of the Planning Commission present if it finds that any of the grounds specified in section 13.24.1 of the Malibu LIP exist. If the commission finds that the request for revocation was not filed with due diligence, it shall deny the request.

E. A Planning Commission action to revoke a coastal development permit may be appealed to the City Council pursuant to Section 13.20 of the Malibu LIP of this Chapter. (Ord. 303 § 3, 2007)

13.25. ENFORCEMENT AND PENALTIES

A. In addition to all other available remedies, the City may seek to enforce the provisions of the LCP and the Coastal Act pursuant to the provisions of Public Resources Code section 30800—30822.

B. Any person who performs or undertakes development in violation of the LCP or inconsistent with any coastal development permit previously issued may, in addition to any other penalties, be civilly liable in accordance with the provisions of Public Resources Code Division 20 Section 30820.

C. Pursuant to Public Resources Code section 30811, the Planning Manager may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the appropriate authority, the development is inconsistent with the provisions of the

Coastal Act, and the development is causing continuing resource damage. Pursuant to Public Resources Code section 30821.6, any person who intentionally or negligently violates a restoration order may be civilly liable for a penalty for each day in which the violation persists. (Ord. 303 § 3, 2007)

13.26. VARIANCES

The purpose of this section is to provide a mechanism for applicants to make an application for a coastal development permit variance from standards or requirements of the Malibu LIP and to provide specific findings for approval or denial of variances. A variance shall not be granted which confers a special privilege inconsistent with the limitations upon other properties in the same vicinity and zone in which the subject property is situated or which authorizes a use or activity which is not otherwise expressly authorized by the zoning regulations governing that parcel of property.

13.26.1 Application

Application for a variance shall be filed in the same manner as for a coastal development permit.

13.26.2 Applicability

Variances shall be decided in the same manner as for regular coastal development permits consistent with this chapter. Variances from the requirements of Section 17.4.2 or Section 17.4.3 of the LIP shall not be granted under this Chapter; rather, waivers from compliance may be granted if the requirements of Section 17.4.2 (C)(3) or 17.4.3 (C)(3), as applicable, are met.

13.26.3 Hearings and Notice

All applications for variances require a public hearing consistent with procedures of this Chapter. Upon receipt in proper form of a variance application, a public hearing shall be set and notice of such hearing given in the same manner as for regular coastal development permits.

13.26.4 Investigation

An investigation of facts for each variance shall be made under the direction of the Director to assure that the action on each application is consistent with the intended purpose of the LCP.

13.26.5 Findings

Following a public hearing, the Planning Commission shall record the decision in writing. The Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, only if it makes all of the following findings of fact supported by substantial evidence that:

A. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

B. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

C. The granting of the variance will not constitute a special privilege to the applicant or property owner.

D. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

E. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

F. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 12 of the Malibu LIP.

G. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

H. The subject site is physically suitable for the proposed variance.

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

J. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands. (Ord. 303 § 3, 2007)

13.26.6 Revocation

If the Planning Commission has reason to believe that grounds for revocation of a variance may exist, the Planning Commission shall proceed consistent with coastal development permit procedures in this chapter. (Ord. 303 § 3, 2007)

13.27 SITE PLAN REVIEW AND MINOR MODIFICATIONS

The purpose of this section is to provide a mechanism for the Planning Manager, in the process of reviewing a coastal development permit, to consider specified minor changes to standards or requirements of the LCP as applied to the coastal development permit. In reviewing a coastal development permit the Planning Manager can process a site plan review or minor modifications to approve a deviation from standards required in the LCP for the specific situations listed in sections 13.27.1 (A) and (B).

Application for a site plan review or minor modification shall be filed as part of the coastal development permit and shall be processed consistent with provisions of this chapter. (Ord. 303 § 3, 2007)

13.27.1 Applicability

A. The Planning Manager may consider only the following applications for site plan review:

1. Height increases over the base district maximum of 18 feet up to a maximum of 28 feet in height.

2. Remedial Grading, which is grading necessary to mitigate an environmental hazard as recommended by a geotechnical or soils report prepared by a licensed professional geologist or geotechnical engineer and approved by the City Geotechnical staff.

   Within the Malibu Country Estates Overlay District, remedial grading may also be permitted to restore a building site as constructed in the original grading plan for Tract 30134. The purpose of all remedial grading within the Malibu Country Estates Overlay District shall be to maintain the existing building pads and slopes.

3. Non-visually permeable fences except for those required to comply with LCP policies and standards regarding protection of environmentally sensitive habitat and scenic and visual resources.

4. Structures constructed on slopes greater than 3:1 but less than 2 1/2:1, except for the Malibu Country Estates Overlay District where this provision shall not be available.

5. Grading not exceeding 100 cubic yards total cut and fill within the Malibu Country Estates Overlay District.

6. Satellite or communication devices and antennas within the Malibu Country Estates Overlay District which exceed one meter in diameter and that project above rooflines or are visible from public streets or sidewalks, where necessary to accommodate the technical requirements of the equipment.

7. Wireless telecommunications antennae and facilities (pursuant to the provisions of Section 3.14.1 (B) of the Malibu LIP) that comply with the Most Restrictive Design Standards set forth in Section 3.16.1 (F) of the Malibu LIP.

8. For institutional development, height increases over the base district maximum of 18 feet up to a maximum of thirty-five (35) feet in height for flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries where consistent with all applicable certified Local Coastal Program policies and development standards. Roof-mounted mechanical equipment shall be integrated into the roof design, screened, and may project no more than two feet higher than the structure roof height (screens included).

B. The Planning Manager may grant minor modification permits authorizing the following:

1. Reduce setback and open space requirement by no more than 20%, except that front yard setbacks may be reduced by no more than 50% and side setbacks shall not be reduced where part of a required view corridor.

2. Approve alternative to water saving fixture requirements upon the recommendation of the Building Official.

3. Approve a stringline modification request authorizing the use of an alternative stringline where the application of the stringline rule results in a stringline substantially inconsistent with adjacent development. The modification can result in selecting a different stringline end point than the nearest adjacent corner on the closest upcoast or downcoast property, or selecting the stringline end point on the next upcoast or downcoast property, which the Planning Manager has determined appropriate. (Ord. 373 § 3, 2013; Ord. 303 § 3, 2007)

13.27.3 Notice

Notice of the request shall be given consistent with provisions of this chapter for coastal development permits.

13.27.4 Investigation

The Planning Manager shall investigate the site plan review or minor modification application, including consultation with all appropriate City staff and specialists including the Building Official, City Engineer, City Biologist, City Geologist, City Archeologist and a Coastal Morphologist. (Ord. 303 § 3, 2007)

13.27.5 Findings

A. The Planning Manager may approve or conditionally approve a site plan review application only if the Planning Manager affirmatively finds that the proposal meets all of the following:

1. That the project is consistent with policies and provisions of the Malibu LCP.

2. That the project does not adversely affect neighborhood character.

3. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

The proposed project complies with all applicable requirements of state and local law.

B. The Planning Manager may approve a minor modification application only if the Planning Manager affirmatively finds that the proposal meets all of the following:

1. That the project is consistent with the policies of the Malibu LCP.

2. That the project does not adversely affect neighborhood character.

3. The proposed project complies with all applicable requirements of state and local law.

4. If the request involves a stringline modification, that the proposal conforms to the following:

    a. The development will not be closer to the ocean than a structure of the same type on either adjacent property or a structure used in the stringline determination;

    b. The development will not result in conferring a privilege not enjoyed by an adjacent structure;

    c. Strict compliance with the requirements of Section 3.6.G (3) of the LIP would deprive the property owner of reasonable use of the structure or a use which is enjoyed by one or more adjacent structures; and

    d. The project provides maximum feasible protection to public access, as required by Chapter 12 of the LIP. (Ord. 303 § 3, 2007)

13.27.6 Processing

All Site Plan Reviews and Minor Modifications shall comply with requirements for processing of coastal development permits and appeals consistent with this Chapter.

13.28 DEVELOPMENT AGREEMENTS

This section is intended to provide procedures and requirements for consideration of development agreements for the purposes specified in and as authorized by the Government Code. The Planning Commission may recommend and the City Council may enter into a development agreement for the development of real property with any person having a legal or equitable interest in such property.

13.28.1 Applicability

Development Agreements shall be processed as Amendments to the Local Coastal Program consistent with procedures in Chapter 19 of the Malibu LIP. Approval by the Council of a development agreement shall be by ordinance and shall not take effect until and unless certified by the California Coastal Commission as an amendment to the LCP. Upon effective certification of a Development Agreement by the Coastal Commission through a Local Coastal Program Amendment, any land use designation changes in the Development Agreement shall be redesignated in the LCP.

13.28.2 Initiation of Hearings

Hearings on a development agreement may be initiated:

A. If the City Council instructs the Commission to set the matter for a hearing, report and recommendation; or

B. Upon the initiative of the Commission; or

C. Upon the filing of an application as provided for by Chapter 19 of the Malibu LIP.

13.28.3 Hearing and Notice

Public Hearing and Notice requirements shall be as required in Chapter 19 of the Malibu LIP for LCP Amendments.

13.28.4 Terms, Conditions, Restrictions and Requirements

A development agreement entered into by the Council may include terms and conditions, restrictions and requirements; provided, however, that such terms, conditions, restrictions or requirements shall not be contrary to the policies and regulations of the certified LCP applicable to the proposed development.

13.28.5 Council Hearing and Notice

After receipt of the Commission's recommendation, the Council shall hold a public hearing and shall give notice of such public hearing pursuant to the procedure set forth in Section 13.28.3 of the Malibu LIP.

13.28.6 Council Action

The Council may approve, modify or disapprove a Planning Commission recommendation involving a development agreement, provided that any modification of the development agreement by the Council not previously considered by the Planning Commission during its hearing shall first be referred to the Planning Commission for report and recommendation, but the Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within 40 days after such referral, or such longer period of time designated by the Council, shall be deemed to be an approval by the Planning Commission of the proposed modification.

13.28.7 Amendment or Cancellation

An application to amend or to cancel in whole or in part a development agreement may be made by mutual consent of all parties to the agreement or their successors in interest and shall be submitted and processed consistent with Chapter 19 of the Malibu LIP as LCP Amendment. Procedures for amendment or cancellation shall be the same as provided in this Chapter for initiation and consideration of such agreement and such amendment or cancellation shall not take effect unless and until effectively certified by the Coastal Commission.

13.29 ONSITE WASTEWATER TREATMENT SYSTEM COASTAL DEVELOPMENT PERMITS

13.29.1 Applicability

These regulations shall apply to all applications for Onsite Wastewater Treatment Systems (OWTS) for failed systems or to comply with Regional Water Quality Control Board requirements to upgrade existing systems for existing single family residential uses that does not include other development as defined in Chapter 2 of the Malibu LIP (Definitions). An application for an OWTS Coastal Development Permit (OWTS CDP) shall be made to the Planning Manager.

A. Applications for OWTS CDPs shall be to the Planning Manager on forms provided by the Planning Division.

B. The Planning Manager shall refer the application to the City's Environmental Health Administrator Building Division Manager and City Biologist for verification of the facts and design of the proposed system.

C. Public notice for an OWTS CDP within the Appeal Zone shall be provided in the same manner as for an administrative coastal development permit. Public notice shall be provided for an OWTS CDP outside of the Appeal Zone by posting notice on the project site, at a conspicuous place easily read by the public which is also as close as possible to the site of the proposed development. Such notice shall contain a general description of the nature of the proposed development. (Ord. 303 § 3, 2007)

13.29.2 Findings and Permit Issuance

The Planning Manager may approve an application for an OWTS CDP if the following findings can be made:

A. The proposed OWTS is consistent with the LCP and all applicable LCP provisions, local laws and regulations regarding OWTSs; and

B. The proposed OWTS does not require a new or upgraded shoreline protective device; and

C. The proposed OWTS is necessary to protect public health and/or improve water quality; and

D. The proposed OWTS CDP has been conditioned in accordance with the LCP.

Upon approving an OWTS CDP, the Planning Manager shall issue a written document that at a minimum includes the following information:

A. Location of the project;

B. The date of issuance;

C. An expiration date;

D. The scope of work to be performed;

E. Terms and conditions of the permit; and

F. Findings. (Ord. 303 § 3, 2007)

13.29.3 Reporting of OWTS CDPs

A. The Planning Manager shall report in writing to the Planning Commission at each meeting the permits approved under this section in the same manner as for an administrative permit, consistent with LIP Section 13.13.6.

B. Appeals. Local appeals shall be processed consistent with LIP Section 13.20.1; notice of all local appeals shall be provided in the same manner as for an administrative permit. If the project is located in the appealable zone, Coastal Commission appeals shall be processed consistent with LIP Section 13.20.2. (Ord. 303 § 3, 2007)

13.30 HOUSING ACCESSIBILITY—REQUEST FOR REASONABLE ACCOMMODATION

A. Purpose and Intent. This section sets forth the procedures to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

It is the intent of this section that, notwithstanding time limits provided to perform specific functions, application review, decision making, and appeals proceed expeditiously, especially where the request is time sensitive, and so as to reduce impediments to equal access to housing.

B. Applicability.

1. A request for reasonable accommodation may be made by any person with a disability, his/her representative or any property owner, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities.

2. A request for reasonable accommodation may include a modification or exception to the rules, standards, practices and procedures regulating the siting, development or use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

3. A person with a disability is a person who has a physical or mental impairment that substantially limits or substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment. This section shall only apply to those persons who are defined as disabled under the Acts.

C. Application Submittal.

1. Any person with a disability may file an application for a request for reasonable accommodation with the Planning Department, on a form approved by the Planning Director and shall contain the following information, accompanied by a fee established by resolution of the City Council:

a. Applicant's and/or property owner's name, mailing address, daytime phone number and email address;

b. The address of the property for which the request is being made;

c. Current actual use of the property;

d. The basis for the claim that the individual is considered disabled under the Acts;

e. The specific code provision, regulation, procedure or policy of the LCP from which reasonable accommodation is being requested including an explanation of how application of the existing code provision, regulation, procedure or policy precludes reasonable accommodation;

f. The length of time the reasonable accommodation is necessary;

g. An explanation of why the reasonable accommodation is necessary to make the specific property accessible to the individual;

h. A determination of whether or not the request would result in adverse impacts to wetlands, environmentally sensitive habitat area, public access, public views and/or other coastal resources;

i. A site plan or illustrative drawing showing the proposed accommodation; and

j. Any other information required to make the findings required by subsection (F)(5) of this section consistent with the Acts.

2. A request for reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing. If the project for which the request for reasonable accommodation is being made also requires a CDP, then the applicant shall file the application submittal information together with the application for the CDP for concurrent review.

3. A reasonable accommodation does not affect or negate an individual's obligations to comply with other applicable regulations not at issue with the requested accommodation.

4. If an individual needs assistance in making the request for reasonable accommodation, the City shall provide assistance to ensure that the process is accessible.

D. Reviewing Authority.

1. Applications for reasonable accommodation shall be reviewed by the Director or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director may, in his/her discretion, refer applications that may have had a material effect on surrounding properties (e.g., location of improvements in the front yard, would violate a specific condition of approval, improvements are permanent) directly to the Planning Commission for a decision.

2. Applications for reasonable accommodation submitted for concurrent review with a CDP application shall be reviewed by the authority reviewing the CDP application.

E. Findings. A written decision to grant, grant with conditions, or deny a request for reasonable accommodation shall make all of the following findings:

1. The housing, which is the subject of the request, will be occupied by a person with a disability as defined in subsection (B)(3) above.

2. The approved reasonable accommodation is necessary to make housing available to a person with a disability as defined in subsection (B)(3) above.

3. The approved reasonable accommodation would not impose an undue financial or administrative burden on the City.

4. The approved reasonable accommodation would not require a fundamental alteration in the nature of the LCP.

5. The approved reasonable accommodation would not adversely impact coastal resources.

6. The project that is the subject of the approved reasonable accommodation conforms to the applicable provisions of the LCP and the applicable provisions of this section, with the exception of the provision(s) for which the reasonable accommodation is granted.

F. Decision.

1. The Director shall consider an application, and issue a written determination within forty-five (45) calendar days of the date of receipt of a completed application. If necessary, to reach a determination on any request for reasonable accommodation, the review authority may request further information from the applicant consistent with this section, specifying in detail what information is required. In the event a request for further information is made, the applicable time period to issue a written determination shall be stayed until the applicant responds to the request.

2. At least ten (10) calendar days before issuing a written determination on the application, the Director shall mail notice to the applicant and all abutting property owners and occupants and those immediately across the street that the City will be considering the application and inviting written comments on the requested accommodation.

3. Upon referral from the Director, the Planning Commission shall consider an application at the next reasonably available public meeting after submission of an application for reasonable accommodation. The Commission shall issue a written determination within forty-five (45) calendar days after such public meeting.

4. Notice of Planning Commission meeting to review and act on the application shall be made in writing, ten (10) calendar days prior to the meeting and mailed to the applicant and all abutting property owners and occupants as well as those immediately across the street.

5. The review authority's written decision shall set forth the findings, any conditions or approval, notice of the right to appeal and the right to request reasonable accommodation on the appeals process, if necessary. The decision shall be mailed to the applicant, and when the approving authority is the Director, to any person having provided written or verbal comment on the application.

6. The written decision of the reviewing authority shall be final unless appealed in the manner set forth in subsection (F)(8) below.

7. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

8. Where the improvements or modification approved through reasonable accommodation would generally require a variance, a variance shall not be required.

G. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection E of this section.

H. Appeals. The process set forth in Section 13.20 shall apply, as supplemented by the following:

1. The Planning Commission or the City Council, as applicable, shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than ninety (90) calendar days after an appeal has been filed. All determinations shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.

2. The City shall provide notice of an appeal hearing to the applicant, adjacent property owners and any other person requesting notification at least ten (10) calendar days prior to the hearing. The appeal authority shall announce its findings within thirty (30) calendar days of the hearing, unless good cause is found for an extension, and the decision shall be mailed to the applicant. The Council's action shall be final.

3. If an individual needs assistance in filing an appeal on an adverse decision, the City shall provide assistance to ensure that the appeals process is accessible.

4. Nothing in this procedure shall preclude an aggrieved individual from seeking other state or federal remedy available.

I. Waiver of Time Periods. Notwithstanding any provisions in this section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this section or may request a continuance regarding any decision or consideration by the City of a pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City, shall not constitute failure by the City to provide for prompt decisions on applications and shall not be a violation of any required time period set forth in this section.

J. Discontinuance. Unless the review authority determines a reasonable accommodation runs with the land, a reasonable accommodation shall lapse if the rights granted by it are discontinued for one hundred eighty (180) consecutive days. If the person initially occupying a residence or business vacate, the reasonable accommodation shall remain in effect only if the Director determines that:

1. The modification is physically integrated into a structure and cannot easily be removed or altered to comply with Chapter 3 of the Local Implementation Plan;

2. Its removal would constitute an unreasonable financial burden; and

3. The accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling or business.

   a. The Director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a request by the Director shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation. (Ord. 449 § 4, 2019)

CHAPTER 14

(Deleted by the California Coastal Commission on September 13, 2002)

CHAPTER 15—REQUIREMENTS FOR LAND DIVISIONS

15.1 APPLICABILITY

Land divisions that are subject to the requirements of Section 15.2 and 15.3 of the Malibu LIP shall include subdivisions through a parcel map, tract map, grant deed, or any other method; lot splits; redivisions of land; and issuance of a certificate of compliance, unless the land division occurred prior to the effective date of the Coastal Act and complied with all state laws and local ordinances in effect at the time. Mergers are subject to the requirements of Section 15.4 of the Malibu LIP. Lot line adjustments are subject to the requirements of Section 15.5 of the Malibu LIP.

15.1A PROCESSING OF PROPOSED LAND DIVISIONS

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.

15.1B APPROVAL OF SUBSEQUENT DEVELOPMENT

Subsequent development on a parcel created through a land division shall conform to all provisions of the approved coastal development permit that authorized the land division, or any amendments thereto.

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.

B. A land division shall not be approved unless the City finds that the proposed land division:

1. Does not create any parcels that do not contain an identified building site that:

   a. Could be developed consistent with all policies and standards of the LCP,

   b. Is safe from flooding, erosion, geologic and extreme fire hazards,

   c. Is not located on slopes over 30% and will not result in grading on slopes over 30%.

   All required approvals certifying that these conditions are met shall be obtained;

2. Is designed to cluster development, including building pads, if any, to maximize open space and minimize site disturbance, erosion, sedimentation and required fuel modification;

3. Does not create any parcels where a safe, all-weather access road and driveway cannot be constructed that complies with all applicable policies of the LCP and all applicable fire safety regulations; is not located on slopes over 30% and does not result in grading on slopes over 30%. All required approvals certifying that these conditions are met shall be obtained;

4. Does not create any parcels without the legal rights that are necessary to use, improve, and/or construct an all-weather access road to the parcel from an existing, improved public road;

5. Is designed to minimize impacts to visual resources by complying with the following:

    a. Clustering the building sites to minimize site disturbance and maximize open space;

    b. Prohibiting building sites on ridgelines;

    c. Minimizing the length of access roads and driveways;

    d. Using shared driveways to access development on adjacent lots;

    e. Reducing the maximum allowable density in steeply sloping and visually sensitive areas;

    f. Minimizing grading and alteration of natural landforms, consistent with Chapter 8 of the Malibu LIP;

    g. Landscaping or revegetating all cut and fill slopes and other disturbed areas at the completion of grading, consistent with Section 3.12 of the Malibu LIP;

    h. Incorporating interim seeding of graded building pad areas, if any, with native plants unless construction of approved structures commences within 30 days of the completion of grading.

6. Avoids or minimizes impacts to visual resources, consistent with all scenic and visual resources policies of the LCP;

7. Does not create any additional parcels in an area where adequate public services are not available and will not have significant effects, either individually or cumulatively, on coastal resources;

8. Does not create any parcels without the appropriate conditions for a properly functioning onsite wastewater treatment system or connection to the Civic Center Wastewater Treatment Facility (if applicable), or without an adequate water supply for domestic use. All required approvals certifying that these requirements are met must be obtained;

9. Is consistent with the maximum density designated for the property by the Land Use Plan map and the slope density criteria (pursuant to Section 15.6 of the Malibu LIP);

10. Does not create any parcels that are smaller than the average size of surrounding parcels;

11. Does not subdivide a parcel that consists entirely of ESHA and/or ESHA buffer or create a new parcel that consists entirely of ESHA and/or ESHA buffer;

12. Does not create any new parcels without an identified, feasible building site that is located outside of ESHA and the ESHA buffer required in the LCP and that would not require vegetation removal or thinning for fuel modification in ESHA and/or the ESHA buffer;

13. Does not result in construction of roads and/or driveways in ESHA, ESHA buffer, on a coastal bluff or on a beach;

14. Does not create any parcel where a shoreline protection structure or bluff stabilization structure would be necessary to protect development on the parcel from wave action, erosion or other hazards at any time during the full 100 year life of such development;

15. If located on a beachfront parcel, only creates parcels that contain sufficient area to site a dwelling or other principal structure, onsite wastewater treatment system, if necessary, and any other necessary facilities without development on sandy beaches or bluffs;

16. Includes the requirement to acquire transfer of development credits in compliance with the provisions of the LCP, when those credits are required by the Land Use Plan policies of the LCP. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

15.3 CERTIFICATES OF COMPLIANCE

A. For issuance of a certificate of compliance pursuant to Government Code Section 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was created in compliance with state law and local ordinances in effect at the time of its creation and the parcel(s) has not subsequently been merged or otherwise altered, the City shall not require a coastal development permit. However, if the originally created parcel was subsequently merged or recombined with another parcel(s), a certificate of compliance shall not be issued for the originally created parcel, unless the City finds that creation of the parcel complies with all policies and standards of the LCP, including the requirements of Section 15.2 of the Malibu LIP for approval of land divisions, and the City issues a coastal development permit authorizing the land division.

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 Section 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 cases, the City shall only approve a coastal development permit in the following situations:

1. The land division complies with all policies and standards of the LCP, including the requirements of Section 15.2 of the Malibu LIP 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 requirements of Section 15.2 of the Malibu LIP for approval of land divisions, has been achieved; or

3. If (a) 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 (b) 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 (c) 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 approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the requirements of Section 15.2 of the Malibu LIP for approval of land divisions, except the minimum parcel size; or

4. If (a) 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 (b) 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 approved if it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the requirements of Section 15.2 of the Malibu LIP for approval of land divisions, except the minimum parcel size.

In each of the above cases, the permit shall also require transfer of development credits pursuant to Chapter 7 of the Malibu LIP.

If the requirements of Section 15.3 (D)(1), 15.3 (D)(2) or 15.3 (D)(3) of the Malibu LIP are not met, a coastal development permit for the proposed land division shall be denied.

15.4 MERGER OF PARCELS

15.4.1 Voluntary Merger

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 of the Malibu LIP 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 be in accordance with the adopted fee schedule. (Ord. 303 § 3, 2007)

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.

15.5 LOT LINE ADJUSTMENTS

A. A lot line adjustment shall not be authorized unless it is approved in a coastal development permit. A coastal development permit authorizing a lot line adjustment shall not be approved unless the evidence shows, and the City makes findings, that the proposed lot line adjustment complies with the requirements of this Section (15.5). 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.

B. A lot line adjustment shall not be approved unless the City finds the following:

1. All the parcels involved in lot line adjustment are legal parcels;

2. The lot line adjustment complies with the applicable provisions of the Subdivision Map Act;

3. The reconfigured parcels comply with the LCP size standards and the parcels can be developed consistent with all LCP policies and standards or, if the existing parcels do not meet this requirement, then the reconfigured parcels can accommodate development that does not have greater conflicts with the LCP policies and standards than would have occurred from development on the existing parcels;

4. If environmentally sensitive habitat is present on any of the parcels involved in the lot line adjustment, the lot line adjustment will not increase the amount of environmentally sensitive habitat that would be damaged or destroyed by development on any of the parcels, including any necessary road extensions, driveways, and required fuel modification;

5. As a result of the lot line adjustment, future development on the reconfigured parcels will not increase the amount of landform alteration (including from any necessary road extensions or driveways) from what would have been necessary for development on the existing parcels;

6. As a result of the lot line adjustment, future development on the reconfigured parcels will not have greater adverse visual impacts from a scenic road, public trail or trail easement, or public beach than what would have occurred from development on the existing parcels;

C. If there is a conflict between Sections 15.5 (B)(5) or 15.5 (B)(6) and 15.5 (B)(4) of the Malibu LIP, then protection of environmentally sensitive habitat as required in Section 15.5 (B)(4) of the Malibu LIP shall be given preference.

15.6 SLOPE/DENSITY CRITERIA

In order to address the impacts associated with hillside development, the slope/density criteria shall be applied to subdivisions of parcels within the rural residential zone districts, with the intent to limit the potential intensity of development as the topography becomes steeper. Subdivision requests in these districts shall be

subject to the following slope/density requirements to determine the adjusted, or actual minimum lot size requirement for the subject parcel of land.

15.6.1 Applicability

The following zoning districts shall be subject to the slope/density criteria provisions of this section. Each zoning district indicates the minimum lot size requirement. However, this minimum lot size requirement is subject to change pursuant to Section 15.6.3 of the Malibu LIP, as it relates to the topography of the subject site. Following is a list of the zoning districts and their "base" lot size requirements.

Minimum Lot Size Requirements:

RR-40: 40 acres per lot
RR-20: 20 acres per lot
RR-10: 10 acres per lot
RR-5: 5 acres per lot
RR-2: 2 acres per lot
RR-1: 1 acre per lot)

15.6.2 Formula for Determining the Average Slope

To determine the applicable slope/density factor, the average slope of the subject parcel shall be determined by a registered engineer based on the following formula:

$$S = \frac{IL \times 100}{A}$$

S = Average percent slope
I = Contour line elevation interval in feet
L = Sum of the length of all contour lines across the parcel
A = Net area of parcel in square feet

A. Measurements shall be made at contour intervals not to exceed 10N on a horizontal map scale where 1″ equals 200N or less.

B. When more than one zoning designation exists on a parcel which is proposed to be subdivided, the density limit for the entire property shall be determined by calculating the allowable number of units within each separately zoned area (fractional numbers shall be rounded down to the nearest whole number) and taking the sum total of these densities.

15.6.3 Slope Density Factor

Based on the average percent slope for the property, the following table shall determine the slope/density factor for the subject property.

Average Percent Slope	Slope/Density Factor
0 - 10	1.0
10.1 - 15	1.1
15.1 - 20	1.3
20.1 - 25	1.5
25.1 - 33	1.7
33. - over	1.95

To determine the adjusted, or actual minimum lot size for a parcel, this slope/density factor shall be multiplied by the "base" minimum lot size requirement specified for that zoning district in which the subject parcel is located. The resulting figure is the actual minimum lot size requirement which must be met for any proposed subdivision of the subject parcel of land.

CHAPTER 16

(Deleted by the California Coastal Commission on September 13, 2002)

CHAPTER 17—WATER QUALITY PROTECTION ORDINANCE

17.1. PURPOSE AND INTENT

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, Sections 30230, 30231, 30232 and 30240 of the California Coastal Act, and the City's municipal NPDES permit requirements under the Regional Water Quality Control Board. 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:

A. 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 prevent 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

B. All development should be designed to prevent 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 prevent 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 of the Malibu LIP describe the requirements

and process for implementing BMPs into development and provide examples of types of BMPs to incorporate.

17.2. APPLICABILITY

All properties within the City of Malibu are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions of this Chapter, in addition to any other policies or standards contained elsewhere in the certified LCP that may apply. Where any policy or standard provided in this Chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Malibu LCP, and it is not possible for the development to comply with both the Malibu LCP and other plans, resolutions or ordinances, the policies, standards or provisions described herein shall take precedence.

17.3. APPLICATION SUBMITTAL REQUIREMENTS

The following plans shall be submitted with an application for a Coastal Development Permit according to the requirements listed below.

17.3.1. Construction Phase Requirements: Local Storm Water Pollution Prevention Plan

A. A Local Storm Water Pollution Prevention Plan (SWPPP) 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 SWPPP 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

17.3.2. Post Construction Phase Requirements: Storm Water Management Plan

Post construction plans detailing how stormwater and polluted runoff will be managed or mitigated will be required for all projects that require a Coastal Development Permit. The basic requirement for all projects will be a Storm Water Management Plan that shows how the project will use appropriate Site Design and Source Control BMPs to minimize or prevent adverse effects of the project on water quality. For certain categories of development (see 17.3.3 of the Malibu LIP below) a Water Quality Mitigation Plan will be required showing how Treatment Control (or Structural) BMPs will be used (in addition to Site Design and Source Control BMPs) to minimize or prevent the discharge of polluted runoff from the project.

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 17.5 of the Malibu LIP and Appendix A to minimize or prevent post-construction polluted runoff. The SWMP should also specify any Treatment Control or Structural BMPs that the applicant elects to include in the development to minimize or prevent post-construction polluted runoff, and include the operation and maintenance plans for these BMPs.

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

- Site design and source control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.4.1 of the Malibu LIP)
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address on-site and/or offsite impacts and construction of any necessary improvements

B. In addition to the requirements in A. above, the SWMP shall implement the requirements for a SWMP found in the Malibu Storm Water Code, Section 5.4.09, described below:

1. Storm Water Pollution Prevention Plan (SWPPP), as required in Section 17.3.1. of the Malibu LIP above.

2. Storm drainage improvement measures to mitigate any offsite/downstream negative impacts due the proposed development, including, but not limited to:

   a. Mitigating increased runoff rate due to new impervious surfaces through onsite 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 onsite 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;

   b. Demonstrating by submission of hydrology/hydraulic report by a California Registered Civil Engineer that determines entire downstream storm drain conveyance devices (from project site to the ocean outlet) are adequate for 25-year storm event, or;

   c. Constructing necessary off-site storm drain improvements to satisfy b. above, or;

   d. Other measures accomplishing the goal of mitigating all offsite/downstream impacts.

3. Storm drain pollution prevention measures including all construction elements and Best Management Practices (BMPs) to address the following goals in connection with both construction and long-term operation of the site:

   a. Maximize, to the extent practicable, the percentage of permeable surfaces in order to allow more percolation of runoff into the ground,

   b. Maximize, to the extent practicable, retention of dry-weather runoff onsite to allow percolation into the ground, or installation of other treatment measures thereby preventing pollutants from entering the storm drain system.

4. The applicant is required to comply with the approved SWMP.

C. 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:

1. The City's evaluation of the SWMP will ascertain how well the proposed plan meets the combined objectives set forth above. In addition, the City will analyze the watershed characteristics and land uses, and estimate water quality requirements for each project. Each plan will be evaluated on its own merits according to the particular characteristics of the project and the site to be developed.

2. The SWMP shall be approved or disapproved by the Director of Public Works (or designees) within twenty-one (21) calendar days following submittal. If the plan is disapproved, the reasons for disapproval shall be given in writing to the applicant and made available to the public.

3. Full or partial waivers of compliance with this Section may be obtained for development sites where it can be adequately demonstrated that the accomplishment of these storm drain management measures is an economic and/or physical impossibility due to the particular configuration of the site. Requests for waivers must be approved, in writing, by the Planning Department, the Public Works Department, and the Environmental and Building Safety Department. A variance under Section 13.26 of the LIP from any requirements of this section shall not be granted.

17.3.3. Post Construction Phase Requirements: Water Quality Mitigation Plan

Post construction plans detailing how stormwater and polluted runoff will be managed or mitigated will be required for all projects that require a Coastal Development Permit. The basic requirement for all projects will be a Storm Water Management Plan (see 17.3.2 above) that shows how the project will use appropriate Site Design and Source Control BMPs to minimize or prevent adverse effects of the project on water quality. For certain categories of development a Water Quality Mitigation Plan[1] will be required showing how Treatment Control (or Structural) BMPs will be used (in addition to Site Design and Source Control BMPs) to minimize or prevent the discharge of polluted runoff from the project.

A Water Quality Mitigation Plan (WQMP) shall be required for all development that requires a Coastal Development Permit and is in a category of development identified in 17.3.3.A. below. In addition to the Site Design and Source Control BMPs required for a Storm Water Management Plan, the WQMP shall include Treatment Control (or Structural) BMPs identified in Appendix A to minimize or prevent post-construction polluted runoff. The WQMP shall also include the operation and maintenance plans for these BMPs.

A. A WQMP shall be required for projects that fall into one or more of the following categories of development:

- Single family hillside[2] residential developments (1 acre or more of disturbed area)
- Beachfront developments (2500 square feet or more of impervious surface area)
- Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of ten units or more
- Industrial/commercial development (1 acre 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 that are 2500 square feet or more of impervious surface area and discharge 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

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. The following information shall be included in a WQMP:

- Site design, source control and treatment control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.4.1 and 17.4.2)
- Pre-development peak runoff rate and average volume
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)

- Potential flow paths where erosion may occur after construction

- Expected post-development peak runoff rate and average volume from the site with all proposed non-structural and structural BMPs

- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address on-site and/or offsite impacts and construction of any necessary improvements

- Measures to treat, infiltrate, or filter runoff from impervious surfaces (e.g., roads, driveways, parking structures, building pads, roofs, patios, etc.) on the subject parcel(s) and to discharge the runoff in a manner that avoids erosion, gullying on or downslope of the subject parcel, ponding on building pads, discharge of pollutants (e.g., oil, heavy metals, toxics) to coastal waters, or other potentially adverse impacts. Such measures may include, but are not limited to, the use of structures (alone or in combination) such as onsite desilting basins, detention ponds, dry wells, biofilters, etc.

- 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.

The City Engineer, or his/her designee, who reviews coastal development permits shall determine if the development requires post-development BMP efficacy monitoring and shall approve the monitoring program.

C. 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:

1. Issuance of Discretionary Permits. No Discretionary permit may be issued for any New Development or Redevelopment Project identified in Section 17.3.3. until the Authorized Enforcement Officer confirms that either (1) the project plans comply with the applicable WQMP requirements, or (2) compliance with the applicable WQMP requirements is impracticable for one or more of the reasons set forth below in paragraph 3 regarding issuance of waivers. Where a Redevelopment project results in an increase of less than fifty percent (50%) of the impervious surfaces of a previously existing development, and the existing development did not require a WQMP at the time the last Discretionary approval was granted by the City, the Design Standards set forth in the WQMP will apply only to the addition, and not to the entire development.

2. Issuance of Certificates of Occupancy. As a condition for issuing a Certificate of Occupancy for a New Development or Redevelopment Project identified in Section 17.3.3., the Authorized Enforcement Officer shall require facility operators and/or owners to build all of the storm water pollution control Best Management Practices and Structural or Treatment Control BMPs 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 BMPs will be maintained in compliance with the WQMP and other applicable regulatory requirements.

3. Granting of Waiver. The Authorized Enforcement Officer shall have the authority to grant a waiver to a Development or Redevelopment Project from the requirements of the WQMP, if impracticability for a specific property can be established by the project applicant. A waiver of impracticability may be granted only when all Structural or Treatment Control BMPs have been considered and rejected as infeasible. Recognized situations of impracticability are limited to the following, unless approved by the Regional Board[3]:

   a. Extreme limitations of space for treatment on a Redevelopment project;

   b. Unfavorable or unstable soil conditions at a site to attempt infiltration; and

   c. Risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten (10) feet from the soil surface.

4. A variance under Section 13.26 of the LIP from the requirements of the WQMP shall not be granted.

5. CEQA. Provisions of this section shall be complementary to, and shall not replace, any applicable requirements for storm water mitigation required under the California Environmental Quality Act.

1 The Water Quality Mitigation Plan is essentially a local version of the model Standard Urban Stormwater Mitigation Plan (SUSMP) required by the RWQCB for these categories of development.

2 "HILLSIDE" means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five percent (25%) or greater.

3 Note that the Standard Urban Storm Water Mitigation Plan (SUSMP) for Los Angeles County and Cities in Los Angeles County (March 8, 2000) specifies that except for those three situations above, "Any other justification for impracticality must be separately petitioned by the City and submitted to the Los Angeles Regional Water Quality Control Board for consideration. A waiver granted by the City to any development or redevelopment project may be revoked by the Regional Board Executive Officer for cause and with proper notification upon petition."

17.3.4. Verification of Ongoing BMP Maintenance and Conditions of Transfer

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:

- The developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either

- A signed statement from the public entity assuming responsibility for Structural and Treatment Control BMP maintenance and that it meets all local agency design standards; or

- Written conditions in the sales or lease agreement, which require the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year; or

- Written text in project conditions, covenants, and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the Structural and Treatment Control BMPs; or

- Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction Structural and Treatment Control BMPs.

17.3.5. Water Quality Mitigation Plan for Agricultural and Confined Animal Facility Development

A. New and/or expanded agricultural development, including vineyards and orchards, and the development of confined animal facilities, shall require a Coastal Development Permit if it involves placement or erection of any solid material or structure; grading, removing, dredging, mining, or extraction of any materials; change in intensity of use of land; or removal of significant native vegetation, except for residential vegetable gardens that meet the conditions for an exemption from the Coastal Development Permit requirements under Section 13.4.1 of this Ordinance. For this type of development, a Water Quality Mitigation Plan for Agricultural and Confined Animal Facility Development (WQMP-Ag) shall be developed in order to minimize or prevent polluted runoff and water quality impacts resulting from the development. The WQMP-Ag shall be submitted with an application for a Coastal Development Permit and shall include the following measures:

1. Minimize erosion and prevent excessive sediment and pollutants from adversely impacting water quality by incorporating BMPs such as:

    a. Diversions

    b. Grassed waterways

    c. Sediment basins

    d. Terraces

    e. Critical area planting

    f. Crop residue use

    g. Conservation cover

    h. Filter strips

2. Minimize the release of pesticides into the environment by implementing Integrated Pest Management (IPM) strategies that apply pesticides only when an economic benefit to the producer will be achieved and apply pesticides efficiently and at times when runoff losses are least likely shall be implemented. Pesticide runoff shall be carefully managed in a comprehensive manner, including evaluating past and current pest problems and cropping history, evaluating the physical characteristics of the site, selecting pesticides that are the most environmentally benign, using anti-backflow devices on hoses used for filling tank mixtures, and providing suitable mixing, loading and storage areas.

3. Minimize nutrient loss by developing and implementing comprehensive nutrient management plans based on crop nutrient budgets, identification of the types, amounts and timing of nutrients necessary to produce a crop based on realistic crop yield expectations and identification of onsite environmental hazards.

4. Reduce water loss to evaporation, deep percolation and runoff, remove leachate efficiently, and minimize erosion from applied water by implementing a managed irrigation system that includes the following components:

    a. Irrigation scheduling

    b. Efficient application of irrigation water

    c. Efficient transport of irrigation water

    d. Use of runoff or tailwater

    e. Management of drainage water

5. Reduce physical disturbance of soil and vegetation and minimize direct loading of animal waste and sediment to sensitive areas by implementing the following siting and design measures for confined animal facility development:

    a. Natural vegetation shall be maintained on site and vegetated filter strips, sediment basins and other measures to treat runoff shall be incorporated into the animal facility design.

    b. Animal waste shall be managed, contained, and disposed of to ensure that waste is not introduced to surface runoff or groundwater.

    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.

d. Clean water shall be diverted around feedlots, holding pens, and the storage or disposal areas for waste, compost, fertilizer, amended soil products and any other byproducts of agricultural activities.

17.3.6. Water Quality Checklist

A water quality checklist will be developed by the City and used in the permit review process to assess potential water quality impacts and appropriate mitigation measures. Examples of questions that should be asked include:

- Could the proposed project result in an increase in pollutant discharges to receiving waters? Consider water quality parameters such as temperature, dissolved oxygen, turbidity and other typical storm water pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash).

- Could the proposed project result in significant alteration of receiving water quality during or following construction?

- Could the proposed project result in increased impervious surfaces and associated increased runoff?

- Could the proposed project create a significant adverse environmental impact to drainage patterns due to changes in runoff flow rates or volumes?

- Could the proposed project result in increased erosion downstream?

- Is the project tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list. If so, can it result in an increase in any pollutant for which the water body is already impaired?

- Is the project tributary to other environmentally sensitive areas? If so, can it exacerbate already existing sensitive conditions?

- Could the proposed project have a potentially significant environmental impact on surface water quality or wetlands?

- Could the proposed project have a potentially significant adverse impact on ground water quality?

- Could the proposed project cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?

- Could the project impact aquatic, wetland, or riparian habitat?

17.4. DEVELOPMENT STANDARDS

17.4.1. BMP Requirements and Implementation

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 or prevent 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 17.3.2 of the Malibu LIP, and a WQMP requires the implementation of Site Design, Source Control and Treatment Control BMPs, as specified in 17.3.3 of the Malibu LIP. 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 Section 17.5 and Appendix A of the Malibu LIP.

B. BMP Selection Process.

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:

   a. For each of the proposed project's discharge points, identify the receiving water(s) that each discharge point proposes to discharge to, including hydrologic unit basin number(s), as identified in the most recent version of the *Water Quality Control Plan for the Los Angeles Basin*, prepared by the Los Angeles Regional Water Quality Control Board.

   b. Identify any receiving waters, into which the developed area would discharge to, listed on the most recent list of Clean Water Act Section 303(d) impaired water bodies. List any and all pollutants for which the receiving waters are impaired.

   c. Compare the list of pollutants for which the receiving waters are impaired with the pollutants anticipated to be generated by the project (as identified in Table 1). Any pollutants identified by Table 1 for the project that are also causing impairment of receiving waters shall be considered primary pollutants of concern.

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

      i. Current loadings or historical deposits of the pollutant are impairing the beneficial uses of a receiving water

ii. Elevated levels of the pollutant are found in water or sediments of a receiving water and/or have the potential to be toxic to or bioaccumulate in organisms therein

iii. Inputs of the pollutant are at a level high enough to be considered potentially toxic

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 17.5 of the Malibu LIP, targeting primary pollutants of concern first. In the event that the implementation of a BMP listed in Appendix A or Section 17.5 of the Malibu LIP 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.

17.4.2. Sizing of Treatment Control BMPs

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 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. The above numerical design criteria shall apply to Treatment Control BMPs implemented as part of a WQMP (see Section 17.3.3.A. of the Malibu LIP).

17.4.3. Development on Steep Slopes

A. Soils shall be stabilized and infiltration practices incorporated during the development of roads, bridges, culverts and outfalls to prevent stream bank or hillside erosion. Project plans must include the following BMPs to decrease the potential of slopes and/or channels from eroding and impacting storm water runoff:

- Convey runoff safely from the tops of slopes and stabilize disturbed slopes

- Utilize natural drainage systems to the maximum extent feasible

- Control or reduce or eliminate flow to natural drainage systems to the maximum extent feasible
- Stabilize permanent channel crossings
- Vegetate slopes with native or drought tolerant vegetation
- Install energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion

B. Additional measures to prevent downstream erosion, such as contour drainage outlets that disperse water back to sheet flow, shall be implemented for projects discharging onto slopes greater than 10 percent.

C. New development on steep slopes, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability should incorporate BMPs that do not rely on or increase infiltration.

17.5. DEVELOPMENT-SPECIFIC DESIGN STANDARDS

17.5.1. Commercial Development

Commercial development shall be designed to control the runoff of pollutants from structures, parking and loading areas. The following measures shall be implemented to minimize the impacts of commercial development on water quality.

A. Properly Design Loading/Unloading Dock Areas. Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.
- Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

B. Properly Design Repair/Maintenance Bays. Oil and grease, solvents, car battery acid, coolant, and gasoline from repair and maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays must include the following:

- Repair/maintenance bays must be indoors or designed in such a way that doesn't allow storm water runoff or contact with storm water runoff.
- Design a repair/maintenance bay drainage system to capture all washwater, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance

bays to the storm drain system is prohibited. Obtain an Industrial Waste Discharge Permit if required.

C. Properly Design Vehicle/Equipment Wash Areas. The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. This area must be:

- Self-contained and/or covered, equipped with a clarifier, or other pretreatment facility, and properly connected to a sanitary sewer.

D. Properly Design Parking Areas. Parking lots contain pollutants such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons that are deposited on parking lot surfaces by motor vehicles. These pollutants are directly transported to surface waters. To minimize the offsite transport of pollutants, the following design criteria are required:

- Reduce impervious surface land coverage of parking areas.
- Infiltrate runoff before it reaches storm drain system.
- Treat runoff before it reaches storm drain system.

Parking lots may also accumulate oil, grease, and water insoluble hydrocarbons from vehicle drippings and engine system leaks. To minimize impacts to water quality, the following measures are required:

- Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used (e.g. fast food outlets, lots with 25 or more parking spaces, sports event parking lots, shopping malls, grocery stores, discount warehouse stores).
- Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal, and system fouling and plugging prevention control.

17.5.2. Restaurants

Restaurants shall be designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system. The following measures shall be implemented to minimize the impacts of restaurants on water quality.

A. Properly Design Equipment/Accessory Wash Areas. The activity of outdoor equipment/accessory washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for the washing/steam cleaning of equipment and accessories. This area must be:

- Self contained, equipped with a grease trap, and properly connected to a sanitary sewer.

- If the wash area is to be located outdoors, it must be covered, paved, have secondary containment and be connected to the sanitary sewer.

17.5.3. Gasoline Stations, Car Washes and Automotive Repair Facilities

Gasoline stations, car washes and automotive repair facilities shall be designed to minimize runoff of oil and grease, solvents, car battery acid, coolant and gasoline to stormwater system. The following measures shall be implemented to minimize the impacts of gasoline stations, car washes and automotive repair facilities on water quality.

A. Properly Design Fueling Areas. Fueling areas have the potential to contribute oil and grease, solvents, car battery acid, coolant, and gasoline to the storm water conveyance system. Therefore, design plans for fueling areas must include the following:

- The fuel dispensing area must be covered with an overhanging roof structure or canopy. The canopy's minimum dimensions must be equal to or greater than the area within the grade break. The canopy must not drain onto the fuel dispensing area, and the canopy downspouts must be routed to prevent drainage across the fueling area.

- The fuel dispensing area must be paved with Portland cement concrete (or equivalent smooth impervious surface), and the use of asphalt concrete shall be prohibited.

- The fuel dispensing area must have a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of storm water to the extent practicable.

- At a minimum, the concrete fuel dispensing area must extend 6.5 feet (2.0 meters) from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot (0.3 meter), whichever is less.

B. Properly Design Repair/Maintenance Bays. Oils and grease, solvents, car battery acid, coolant, and gasoline from the repair/maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays must include the following:

- Repair/maintenance bays must be indoors or designed in such a way that doesn't allow storm water run-on or contact with storm water runoff.

- Design a repair/maintenance bay drainage system to capture all wash-water, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain system is prohibited. Obtain an Industrial Waste Discharge Permit if required.

C. Properly Design Vehicle/Equipment Wash Areas. The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. This area must be:

- Self-contained and/or covered, equipped with a clarifier, or other pretreatment facility, and properly connected to a sanitary sewer or to a permit disposal facility.

D. Properly Design Loading/Unloading Dock Areas. Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.

- Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

17.5.4. Outdoor Material Storage Areas

Outdoor material storage areas refer to storage areas or storage facilities used solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Outdoor material storage areas shall be designed to prevent stormwater contamination from stored materials. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following measures are required:

- Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet, shed or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.

- The storage areas must be paved and sufficiently impervious to contain leaks and spills.

- The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.

17.5.5. Trash Storage Areas

A trash storage area refers to an area where a trash receptacle or receptacles are located for use as a repository for solid wastes. Loose trash and debris can be easily transported by the forces of water or wind into nearby storm drain inlets, channels, and/or creeks. Trash storage areas shall be designed to prevent stormwater contamination by loose trash and debris. All trash container areas must meet the following requirements (individual family residences are exempt from these requirements):

- Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s).

- Trash container areas must be screened or walled to prevent off-site transport of trash.

17.5.6. Pools and Spas

Chlorinated and brominated pool and spa drainage have the potential to negatively impact both aquatic and marine plant and animal species. To minimize impacts to water quality, and to ensure that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area, the following design criteria are required:

- Alternative sanitization methods are required for all pools and spas. This may include no chlorine or low chlorine sanitization methods.

- Prohibit discharge of chlorinated pool water.

- 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.

17.6. PROHIBITED ACTIVITIES

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.

17.7. GOOD HOUSEKEEPING PROVISIONS

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.

17.8. HYDROMODIFICATION

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, unless no feasible alternative exists, is the only acceptable method of bank stabilization and flood protection for new development, and the preferred method for redevelopment. Where armoring of stream banks has failed, streambanks shall be stabilized using bioengineered structures, unless no feasible alternative exists. 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.

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.

17.9. AGRICULTURE AND CONFINED ANIMAL FACILITIES

A. New and/or expanded agricultural development, including vineyards and orchards, and the development of confined animal facilities, shall require a Coastal Development Permit if it involves placement or erection of any solid material or structure; grading, removing, dredging, mining, or extraction of any materials; change in intensity of use of land; or removal of significant native vegetation, except for residential vegetable gardens that meet the conditions for an exemption from the Coastal Development Permit requirements under Section 13.4.1 of the LIP. For this type of development, a Water Quality Mitigation Plan for Agricultural and Confined Animal Facility Development (WQMP-Ag) shall be developed in order to minimize or prevent polluted runoff and water quality impacts resulting from the development. The WQMP-Ag shall be submitted with an application for a Coastal Development Permit, as specified in 17.3.5 of the Malibu LIP.

B. In addition to the requirement of the WQMP-Ag, agricultural and confined animal facility development shall comply with the following:

1. Development shall not result in the placement of compost, fertilizer, or amended soil products in or within 100 feet of streams or other surface waters.

2. Development shall not result in the disposal of animal wastes, wastewater, or any other byproducts of agricultural activities in or within 100 feet of streams or other surface waters.

3. Confined animal facility development shall not produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel. (Ord. 303 § 3, 2007)

Appendix A STORM WATER BEST MANAGEMENT PRACTICES

The following are a list of BMPs that may be used to minimize or prevent the introduction of pollutants of concern that may result in significant impacts to receiving waters. Other BMPs approved by the City as being equally or more effective in pollutant reduction than comparable BMPs identified below are acceptable. All BMPs must comply with local zoning and building codes and other applicable regulations.

Site Design BMPs

Minimizing Impervious Areas

- Reduce sidewalk widths
- Incorporate landscaped buffer areas between sidewalks and streets.
- Design residential streets for the minimum required pavement widths
- Minimize the number of residential street cul-de-sacs and incorporate landscaped areas to reduce their impervious cover.
- Use open space development that incorporates smaller lot sizes
- Increase building density while decreasing the building footprint
- Reduce overall lot imperviousness by promoting alternative driveway surfaces and shared driveways that connect two or more homes together
- Reduce overall imperviousness associated with parking lots by providing compact car spaces, minimizing stall dimensions, incorporating efficient parking lanes, and using pervious materials in spillover parking areas

Increase Rainfall Infiltration

- Use permeable materials for private sidewalks, driveways, parking lots, and interior roadway surfaces (examples: hybrid lots, parking groves, permeable overflow parking, etc.)
- Direct rooftop runoff to pervious areas such as yards, open channels, or vegetated areas, and avoid routing rooftop runoff to the roadway or the urban runoff conveyance system

Maximize Rainfall Interception

- Maximizing canopy interception and water conservation by preserving existing native trees and shrubs, and planting additional native or drought tolerant trees and large shrubs

Minimize Directly Connected Impervious Areas (DCIAs)

- Draining rooftops into adjacent landscaping prior to discharging to the storm drain
- Draining parking lots into landscape areas co-designed as biofiltration areas
- Draining roads, sidewalks, and impervious trails into adjacent landscaping

Slope and Channel Protection

- Use of natural drainage systems to the maximum extent feasible
- Stabilized permanent channel crossings
- Planting native or drought tolerant vegetation on slopes
- Energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels

Maximize Rainfall Interception

- Cisterns
- Foundation planting

Increase Rainfall Infiltration

- Dry wells

Source Control BMPs

- Storm drain system stenciling and signage
- Regular street and parking lot sweeping
- Outdoor material and trash storage area designed to reduce or control rainfall runoff
- Efficient irrigation system

Treatment Control BMPs

Biofilters

- Grass swale
- Grass strip
- Wetland vegetation swale
- Bioretention

Detention Basins

- Extended/dry detention basin with grass lining
- Extended/dry detention basin with impervious lining

Infiltration Basins

- Infiltration basin
- Infiltration trench

- Porous asphalt
- Porous concrete
- Porous modular concrete block

Wet Ponds and Wetlands

- Wet pond (permanent pool)
- Constructed wetland

Drainage Inserts

- Oil/Water separator
- Catch basin insert
- Storm drain inserts
- Catch basin screens

Filtration Systems

- Media filtration
- Sand filtration

Hydrodynamic Separation Systems

- Swirl Concentrator
- Cyclone Separator

Appendix B BMP IMPLEMENTATION TABLES

Table 1. Anticipated and Potential Pollutants Generated by Land Use Type

	General Pollutant Categories								
Priority Project Categories	**Sediments**	**Nutrients**	**Heavy Metals**	**Organic Compounds**	**Trash & Debris**	**Oxygen Demanding Substances**	**Oil & Grease**	**Bacteria & Viruses**	**Pesticides**
Detached residential development	X	X			X	X	X	X	X
Attached residential development	X	X			X	P(1)	P(2)	P	X
Commercial development >100,000 ft^2	P(1)	P(1)		P(2)	X	P(5)	X	P(3)	P(5)

Automotive service facilities			X	X(4)(5)	X		X		
Retail gasoline outlets			X	X(4)(5)	X		X		
Restaurants					X	X	X	X	
Hillside development	X	X			X	X	X		X
Parking lots	P(1)	P(1)	X		X	P(1)	X		P(1)
Streets, highways & freeways	X	P(1)	X	X(4)	X	P(5)	X		

X = anticipated
P = potential
(1) A potential pollutant if landscaping exists on-site
(2) A potential pollutant if the project includes uncovered parking areas
(3) A potential pollutant if land use involves food or animal waste products
(4) Including petroleum hydrocarbons
(5) Including solvents

Table 2. Site Design and Source Control BMP Selection Matrix

	Specific Areas for Implementation of Site Design and Source Control BMPs													
Priority Project Categories	Private Roads	Residential Driveways & Guest Parking	Loading/Unloading Dock Areas	Repair/Maintenance Bays	Vehicle Wash Areas	Outdoor Processing Areas	Equipment Wash Areas	Parking Areas	Roadways	Fueling Areas	Hillside Landscaping	Outdoor Material Storage Areas	Trash Storage Areas	Pools and Spas
Detached residential development	R	R									R			R
Attached residential development	R												R	R
Commercial development >100,000 ft^2			R	R	R	R						R	R	
Automotive service facilities			R	R	R		R			R		R	R	
Retail gasoline outlets			R	R	R		R			R		R	R	

Restaurants			R				R					R	R	
Hillside development	R										R			
Parking lots								R					R	
Streets, highways & freeways									R					
R = Required - minimize pollutants of concern by selecting appropriate Site Design and Source Control BMPs														

Table 3. Treatment Control BMP Selection Matrix(1)

Pollutant of Concern	***Treatment Control BMP Categories***						
	Biofilters	Detention Basins	Infiltration Basins(2)	Wet Ponds or Wetlands	Drainage Inserts	Filtration	Hydrodynamic Separator Systems(3)
Sediment	M	H	H	H	L	H	M
Nutrients	L	M	M	M	L	M	L
Heavy Metals	M	M	M	H	L	H	L
Organic Compounds	U	U	U	U	L	M	L
Trash & Debris	L	H	U	U	M	H	M
Oxygen Demanding Substances	L	M	M	M	L	M	L
Bacteria	U	U	H	U	L	M	L
Oil & Grease	M	M	U	U	L	H	L
Pesticides	U	U	U	U	L	U	L

(1) The City is encouraged to periodically assess the performance characteristics of many of these BMPs to update this table.
(2) Including trenches and porous pavement
(3) Also known as hydrodynamic devices and baffle boxes

L: Low removal efficiency
M: Medium removal efficiency
H: High removal efficiency
U: Unknown removal efficiency

Sources: *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters* (1993), *National Stormwater Best Management Practices Database* (2001), *and Guide for BMP Selection in Urban Developed Areas* (2001).

CHAPTER 18—WASTEWATER TREATMENT SYSTEM STANDARDS ORDINANCE

18.1. PURPOSE AND INTENT

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 Onsite Wastewater Treatment Systems (OWTSs) and Civic Center Wastewater Treatment Facility (CCWTF), 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 OWTSs and CCWTF 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. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.2. APPLICABILITY

All properties within the City of Malibu are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions of this Chapter in addition to any other policies or standards contained elsewhere in the certified LCP that may apply. Where any policy or standard provided in this Chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified LCP, and it is not possible for the development to comply with both the LCP and other plans, resolutions or ordinances, the policies, standards or provisions described herein shall take precedence.

OWTSs and CCWTF shall be designed, sited, installed, operated and maintained in compliance with the policies, standards and provisions contained herein in the LCP. At such time as the rules and regulations developed for OWTSs by the State Water Resources Control Board pursuant to Assembly Bill 885 become effective, if they conflict with the requirements of the LCP, the City shall submit an LCP amendment seeking to modify the requirements of the LCP.

Development involving onsite wastewater discharges shall also be consistent with the rules and regulations of the California Regional Water Quality Control Board-Los Angeles Region, including Waste Discharge Requirements, revised waivers and other regulations that apply. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.3. DEFINITIONS

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:

"CESSPOOL" means a lined or partially lined underground pit into which raw household wastewater is discharged and from which the liquid seeps into the surrounding soil.

"EFFLUENT DISPERSAL SYSTEM" means typically a soil-based system containing a bed or trenches with clean gravel and a system of piping through which treated sewage may seep into the surrounding soil

for further treatment and disposal. The systems are usually subsurface but can be above the natural grade as well. Typical horizontal systems include leachfields and seepage beds. Vertical systems (i.e., seepage pits) consist of a deep hole and use no piping.

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

"LEACHFIELD" means the area used for disposal of septic tank effluent through a non-water-tight artificial structure, conduit, or porous material by downward or lateral drainage, or both, into the surrounding permeable soil. A leachfield is considered a standard subsurface sewage effluent dispersal system/soil absorption field.

"MALIBU VALLEY GROUNDWATER BASIN" means a small alluvial basin located along the Los Angeles County coastline within the City of Malibu. The basin is bounded by the Pacific Ocean on the south and the non water-bearing Tertiary rocks on all remaining sides.

"ONSITE WASTEWATER TREATMENT SYSTEM" OR "OWTS" means an onsite system designed to treat and dispose of domestic sewage.

"REGIONAL BOARD" means the California Regional Water Quality Control Board-Los Angeles Region.

"SEEPAGE PIT" means a deep hole with a porous-walled inner chamber and a filling of gravel between the chamber and the surrounding soil. Septic tank effluent enters the inner chamber and is temporarily stored there until it gradually seeps out and infiltrates into the surrounding sidewall soil. A seepage pit is considered a vertical sewage effluent dispersal system.

"SEPTIC SYSTEM" means an onsite system designed to treat and dispose of domestic sewage. A typical septic system consists of a tank that receives waste from a residence or business and a system of tile lines or a pit for disposal of the liquid effluent that remains after decomposition of the solids by bacteria in the tank. Solids remaining in the tank must be pumped out periodically.

"SOIL ABSORPTION SYSTEM" means a soil-based effluent dispersal system typically containing a bed or trenches with clean gravel and a system of piping through which treated sewage may seep into the surrounding soil for further treatment and disposal. The systems are usually subsurface, but can be above the natural grade as well. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.4. OWTS PERMIT APPLICATION AND OTHER GENERAL REQUIREMENTS

A. A CDP is required for all new OWTSs, for any expansion and modification of an existing OWTS, or for a change in the type or intensity of use of an existing system. The CDP shall not be approved unless (1) the existing or proposed septic system is consistent with the requirements contained in this Chapter, current Guidelines of the Regional Water Quality Control Board or such other requirements of the City of Malibu, whichever are more stringent, or (2) a condition is imposed on the permit that requires upgrade or redesign of the existing septic system, or construction of a new septic system, to comply with the requirements contained in this Chapter.

B. The application for a CDP for OWTS installation and expansion shall include a Site Evaluation Report (SER) prepared by a qualified professional. The SER shall contain results of soils analysis and/or percolation tests including but not limited to: soil conditions, characteristics and estimated permeability, depth of zones of saturation, depth to bedrock, surrounding geographic and topographic features, direction of ground contour and % slopes, distance to drainages, water bodies and potential for flooding. Site limitations and special characteristics shall be listed in the SER.

C. The SER prepared for OWTS installation or expansion shall also include the following information:

1. Existing uses on the site (for expansion only);

2. Existing and proposed locations of all buildings, roads, driveways, and other physical features;

3. Property lines;

4. Easements;

5. Water sources, wells and surface water courses or drainage ways;

6. Locations for septic tank, distribution box or drop boxes, and all other system components;

7. Locations of subsurface sewage effluent dispersal area and replacement area, drawn to scale;

8. Operations and maintenance instructions for OWTS components.

D. The SER prepared for the following developments shall include a cumulative impact analysis evaluating the potential impact by the proposed OWTS(s) on groundwater level and quality (i.e., effects of groundwater mounding, nitrate loading and fecal/pathogen contamination), quality of nearby surface drainages (i.e., nitrate loading and fecal/pathogen contamination), and slope stability:

1. Individual OWTS with flow of greater than 1,500 gallons per day (gpd);

2. Subdivisions;

3. OWTSs for commercial developments;

4. For any lot which involves two or more OWTSs within 100 feet of each other with a combined capacity of over 1,500 gpd;

5. OWTSs for multi-family residential developments;

6. Any "community" disposal system which includes three or more individual homes utilizing one disposal system;

7. System(s) which the City or LA RWQCB has identified as presenting a potential threat to surface water or groundwater beneficial uses; and

8. For systems within areas of known nitrate groundwater problems.

E. The minimum values used in the cumulative impact analysis for the total nitrogen concentration of septic tank effluent shall be 40 mg/L as N (for average flow conditions) for residential wastewater, or as determined from the sampling of comparable system(s) or literature values acceptable to the City. OWTSs shall 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.

F. Groundwater mounding analysis (in the cumulative impact analysis) shall be used to predict the highest rise of the water table and shall account for background groundwater conditions during the wet weather season. 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:

1. All OWTSs: Groundwater mounding beneath the effluent dispersal system/soil absorption field shall not result in more than 50% reduction in the minimum depth to seasonably high groundwater as required under Section 18.7(G).

2. Large Systems: Notwithstanding (F)(1), systems with design flows of 1,500 gpd or more shall have a minimum unsaturated depth of 24 inches beneath the bottom of the subsurface effluent dispersal system (for leachfield or similar systems) or beneath the natural grade (for above ground systems).

G. Development that includes new OWTS(s) or expansion of existing OWTS(s) shall also include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets, and, where feasible, the elimination of garbage disposals to avoid hydraulic overloading of the OWTS.

H. Where feasible, development that includes new OWTS(s) or expansion of existing OWTS(s) shall divert graywater such as washing machine and bath/shower wastewater from the septic system for separate treatment and/or reuse on site.

I. The construction dimensions of the sewage effluent dispersal system (soil absorption field) of an OWTS shall be based on soils analysis and/or percolation tests. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a Cali-

fornia Registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist.

J. A valid Standard Operating Permit (SOP) or Renewable Operating Permit (ROP) shall be required for all new, modified, and expanded OWTSs. A SOP shall be issued for standard OWTSs for single-family residences in areas of low environmental sensitivity. A ROP shall be issued for:

1. Systems for commercial and multi-family residential developments;

2. Alternative/enhanced treatment systems;

3. Performance-based systems required to achieve specific water quality criteria.

K. The City shall determine the length of time that a ROP shall remain in effect by one or more of the following considerations:

1. System complexity;

2. Public health concerns;

3. Environmental concerns.

L. The City shall not issue an operating permit until the as-built plans and the operations and maintenance instructions are submitted and the final inspection and testing of the system has been performed. The plans showing placement of soil absorption systems shall be kept on file in City offices.

M. The operating permit shall include all applicable monitoring, operation and maintenance requirements contained in this Chapter and all applicable regulations.

N. The ROP shall further require that maintenance contracts with qualified service providers be established and remain in effect. In addition, the City shall only renew a ROP after a satisfactory compliance inspection. The City shall require any corrections necessary to bring the OWTS into compliance with all applicable regulations. Failure to make the corrections within thirty days after written notification or posting of a correction notice at the site shall result in a violation of the permit process and the issuance of a violation notice by the City.

O. All OWTSs shall be designed, sited, installed, operated, and maintained in full compliance with the requirements contained in this LCP. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.5. LAND DIVISION

A. Any residential land division including single and/or multi-family residential parcels that will use OWTS for wastewater treatment shall be subject to the following criteria for approval:

1. Documented site and soils evaluation by a qualified professional and the City. The evaluation shall be based on a soils analysis and/or percolation test providing information including but not limited to:

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

    b. Seasonal and cyclical variations; and

    c. Adequacy of percolation rates in post-grading conditions.

2. Any additional evaluation or testing deemed necessary to satisfy the standards set forth in this LCP and all applicable regulations.

3. Each parcel within the proposed land division shall have a designated subsurface sewage effluent dispersal area. The location of the treatment area shall be determined from evaluation of the site and soil characteristics, and absorption capacity of the soil in gallons per day, per square foot. The treatment areas for all parcels shall be sufficient to accommodate, at a minimum, a 2-bedroom home and the recommended type of treatment system.

4. A plot or site plan prepared by the professional performing the site and soils evaluation noting the dimension and location of the proposed subsurface sewage effluent dispersal area. The subsurface sewage effluent dispersal area shall note the size and dimension of the primary soil absorption field and the reserve field. The reserve field shall have the capability to accommodate the entire wastewater flow. The site plans shall be recorded with the parcel or subdivision map. A copy of the site plan and recommended type of OWTS shall be placed on file with the City.

5. An analysis for the proposed land division showing no potential significant cumulative impact as a result of the construction and operation of the OWTSs on groundwater level and quality (i.e., effects of groundwater mounding, nitrate loading and fecal/pathogen contamination), quality of nearby surface drainages (i.e., nitrate loading and fecal/pathogen contamination), and slope stability.

6. The minimum values used in the cumulative impact analysis for the total nitrogen concentration of septic tank effluent shall be 40 mg/L as N (for average flow conditions) for residential wastewater, or as determined from the sampling of comparable system(s) or literature values. OWTSs shall not cause the groundwater nitrate-nitrogen concentration to exceed 10.0 mg/L as N at any current or existing source of drinking water.

7. Groundwater mounding analysis (in the cumulative impact analysis) shall be used to predict the highest rise of the water table and shall account for background groundwater conditions during the wet weather season. The maximum acceptable rise of the water table for short periods of time

during the wet weather season, as estimated from groundwater mounding analysis, shall be as follows:

a. All OWTSs: Groundwater mounding beneath the effluent dispersal system/soil absorption field shall not result in more than 50% reduction in the minimum depth to seasonably high groundwater as required under Section 18.7(G).

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 bottom of the subsurface effluent dispersal system (for leachfield or similar systems) or beneath the natural grade (for above ground systems).

B. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California Registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist.

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 subsurface sewage effluent dispersal area shall be sized according to the estimated strength and volume of waste flow generated by the commercial facility. The use of OWTS for any waste discharge other than sewage and graywater shall not be allowed without prior approval by the Executive Officer of the Regional Board. (Ord. 303 § 3, 2007)

18.6. OWTS SITING, DESIGN AND PERFORMANCE REQUIREMENTS

A. OWTSs shall be located above the ten-year floodplain and be protected from standing water to the maximum extent feasible.

B. The construction dimensions of the sewage effluent dispersal area (soil absorption field) of an OWTS shall be based on soils analysis and/or percolation tests. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California Registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist.

C. Septic tank and leach area systems shall be used only where the proposed site can maintain subsurface disposal. When a percolation test is required, no standard OWTS shall be permitted to serve a new development or redevelopment if that test shows the absorption capacity of the soil is less than 0.83 gallons per square foot (33.8 L/m) per 24 hours.

D. The proposed site for subsurface sewage effluent dispersal system/soil absorption system shall also be free from poorly drained soils and soils or formations containing continuous channels, cracks, or fractures, unless a setback of 250 ft. to domestic water supply well or surface water is assured, or unless secondary or tertiary wastewater pre-treatment is provided prior to discharging to the system.

E. Under no circumstances shall construction of new cesspools be allowed.

F. Use of treated OWTS effluent for above-surface irrigation, as an alternative to subsurface treatment, shall require the design and operation approval by the Executive Officer of the Regional Board and/or any other applicable permitting authorities.

G. Depth from the bottom of the effluent dispersal system to groundwater shall be based upon percolation rate, but no less than 5 feet. Groundwater shall be defined as the highest seasonal level of the permanent water table in the soil.

H. Seepage pits shall be used only where distances between pit bottom and groundwater is equal to or greater than the following minimum separations, based on soil type:

1. 50 ft (Gravels — soils with over 95% by weight coarser than a No. 200 sieve and over half of the coarse fraction larger than a No. 4 sieve);

2. 20 ft (Gravels with few fines — soils with 90% to 94% coarse fraction larger than a No. 4 sieve);

3. 10 ft (Other).

I. Standard systems shall not be placed on soils having percolation rates above 60 minutes per inch (mpi) or below 5 mpi. Enhanced treatment/alternative systems offering secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system shall be used instead.

J. Beachfront development that includes new OWTS(s) or expansion of existing OWTS(s) shall provide secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.

K. Siting of soil absorption fields/effluent dispersal systems on slopes greater than 10% shall be evaluated to assess possible impacts of lateral migration of effluent. The evaluation results shall be included in the SER. No soil absorption fields shall be located on slopes greater than 45%. Conventional gravity trench leachfields shall not be installed on slopes greater than 30%. Soil absorption fields located on slopes between 30 and 45% shall be designed to address critical factors of soil depth, restrictive horizons, soil permeability, application rates and disposal methods. The soil shall have a minimum effective depth of six feet with no evidence of seasonal saturation.

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

1. OWTSs 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 OWTSs: Groundwater mounding beneath the effluent dispersal system/soil absorption field shall not result in more than 50% reduction in the minimum depth to seasonably high groundwater as required under Section 18.7 (G); 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 bottom of the subsurface effluent dispersal system (for leachfield or similar systems) or beneath the natural grade (for above ground systems).

M. All OWTSs on new developments and redevelopments shall comply with the following horizontal setbacks (in feet):

Min. Horizontal Setback From:	Septic Tank	Horizontal Effluent Dispersal System	Vertical Effluent Dispersal System (Seepage Pit)
Buildings or structures	5	8	8
Property line	5	5	8
Water supply wells	150	150	150
Perennial streams	100	100	100
Intermittent/ephemeral streams	100	100	100
Springs or seeps	50	50	100
Ocean/lakes/reservoirs[1]	50	100	100
Upgradient groundwater interceptor	20	20	20
Downgradient groundwater interceptor	25	50	50
Storm drainage pipe[2]	5	50	50
Fill/cut bank[3]	10	4 x Height	4 x Height
Trees	10	N/A	10
Onsite domestic water service line	5	5	5
Distribution box	N/A	5	5
Pressure public water main	10	10	10

[1] Systems that provide secondary or tertiary effluent treatment prior to discharge to the subsurface effluent dispersal systems are not required to meet these minimum horizontal setback requirements provided that no parts of the OWTS are, at any time, submerged or exposed to direct contact with these surface water bodies. In the case of beachfront developments and redevelopments, the OWTS shall, to the maximum extent feasible, be located at the farthest point from the Ocean on a parcel to avoid the construction of protective structures such as sea walls and bulkheads.

[2] Where publicly owned storm drainage pipes run across a property rendering it impossible to meet these minimum horizontal setback requirements, the effluent dispersal system is allowed to be located within 50 feet of the pipes provided that these pipes are positioned vertically higher than the bottom of the effluent dispersal system or the applicant demonstrates that the pipes are sealed so that there is no possibility for shallow groundwater to infiltrate the storm drain.

[3] Where a California Registered Geologist finds and states in writing that the stability of the fill or cut bank will not be compromised by a shorter horizontal separation and that a shorter horizontal separation will not result in sewage effluent daylighting, a shorter horizontal setback for the effluent dispersal system can be used per the said geologist's recommendation.

N. Design flows shall be estimated by one of two methods: by number of bedrooms for the proposed dwelling or by estimating the treatment capacity of the subsurface sewage effluent area/soil absorption field in gallons per day per square foot (gpd/sf). In sizing by number of bedrooms the designer shall use a minimum of 300 gallons per day per bedroom (gpd/bdrm) or 120 gpd/bdrm for low-flow fixtures. The dwelling shall be designed not to exceed the maximum number of fixture units or number of bedrooms than can be supported by the estimated maximum daily flow. For commercial developments, the design flows shall be based on the estimated waste/sewage flow rates for the various commercial uses identified in Table K-3 of the City of Malibu's most recently adopted Uniform Plumbing Code, as amended.

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

Soil Texture	Structure	Application Rate (gpd/sf)
Gravelly coarse sand & coarser	Loose or cemented	0.0
Clay, sandy or silty clay silt loam	Weak or massive Massive	0.0 0.0
Sandy clay loam, clay loam or silty clay loam	Massive	0.0
Sandy clay, clay or silty clay	Moderate to strong	0.2
Sandy clay loam, clay loam or silty clay loam	Weak	0.2
Sandy clay loam, clay loam or silty clay loam	Moderate to strong	0.4
Sandy loam, loam or silt loam	Weak	0.4
Sandy loam, loam or silt loam	Moderate to strong	0.6
Fine, very fine, loamy fine and very loamy fine sand	Not Applicable	0.8
Coarse, single grain sand	Not Applicable	1.2

P. Septic tanks shall be designed to provide a minimum retention time of at least 24 hours, with one-half to two-thirds of the tank volume reserved for sludge and scum accumulation. The appropriate septic tank capacity shall conform to requirements contained in Table K-2 of the City of Malibu's most recently adopted Uniform Plumbing Code, as amended.

Q. There shall be a minimum of 100% reserve area set aside for replacement of the soil absorption field. The backup field shall be capable of accommodating the entire wastewater flow.

R. No soil absorption fields/subsurface effluent dispersal systems shall be allowed beneath nonporous paving or surface covering.

S. Soils in the designated soil absorption field shall not be compacted during construction and post construction of new developments and redevelopments. Construction vehicles shall be restricted from entering the designated soil absorption field area. Septic owners shall not place buildings, livestock, impervious materials, equipment, parking areas, or driveways over the soil absorption area. Surface and subsurface soils in these areas shall not be removed, ripped, contoured or compacted. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.7. ALTERNATIVE SYSTEMS

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 be 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.

D. Package wastewater treatment plants shall only be used on parcels where site and soil conditions will not support a standard system and other alternative systems or where it can be demonstrated that a package treatment plant would have fewer adverse impacts to coastal resources, water quality or geology stability than traditional or other alternative systems. Package treatment plants shall be designed by a California Registered Civil Engineer.

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.

F. The construction of public package wastewater treatment facilities may be permitted where it is demonstrated to be the preferable long-term wastewater management solution, where it is designed to not exceed the capacity for growth allowed in the LCP, and where it can be constructed consistent with all requirements of this LCP and all applicable regulations. (Ord. 393 § 4, 2015)

18.8. OWTS MAINTENANCE, OPERATION AND MONITORING

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 OWTS 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 OWTSs subject to a CDP issued pursuant to this LCP are maintained, operated and monitored in accordance with the following requirements:

1. Septic tanks shall be inspected every two to five years to determine the need for pumping. If garbage grinders or dishwashers discharge into the septic tank, inspection should occur at least every two years.

2. Septic tanks shall be pumped when the clear liquid zone separation in the tank is less than 2/3 of the total depth in the tank.

3. Leachfields shall be alternated when leachfield inspection pipes reveal a high water level.

4. OWTSs shall be operated and maintained to prevent the surfacing of effluent. In the event of surfacing effluent, the owner shall minimize use or cease operation of the system until it is repaired.

5. No buildings, livestock, impervious materials, equipment, parking areas, or driveways shall be placed over the subsurface sewage effluent dispersal areas/soil absorption fields. Surface and subsurface soils in the treatment areas shall not be removed, ripped, contoured or compacted. The treatment areas may be tilled with a light duty, hand operated garden tiller (no tractor operated implements), hand graded and covered with lawn or non-invasive plants. The treatment areas may be irrigated with portable sprinklers or landscape irrigation. Flood irrigation and surface drainage shall not encroach on or impact components of the OWTS.

6. The septic owner and/or operator shall control the wastewater discharge to the system within the design quantity and strength parameters.

7. The septic owner and/or operator shall operate and maintain their system in conformance with the conditions prescribed in the operating permit and the designer and installer's recommendations.

D. Septic owners and/or operators of new, expanded, or modified OWTSs subject to a CDP issued pursuant to this LCP shall use one or more of the following management methods to monitor and maintain their systems:

1. For a standard OWTS with a Standard Operating Permit, owners may manage their own system and provide to the City routine monitoring and evaluation reports per requirements set forth by the City.

2. Recording the requirement for an on-going service contract on the property deed and implementing the requirement.

3. Obtaining a Renewable Operating Permit with the requirement for maintaining a service contract by employing a qualified public or private entity to provide monitoring and maintenance of OWTSs.

4. Obtaining the services of a management entity (e.g., public utility districts, water & sewer districts, special-use districts, and corporations and home-owner associations with demonstrated capacity to assure long-term management) to provide maintenance, operation and monitoring assurance.

E. Permit conditions shall be imposed to require that: prospective buyers of property with new, expanded, or modified OWTSs 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 OWTS(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:

1. The type, configuration and condition of the septic tank, the primary soil treatment system (and reserve treatment area if known) and any enhanced treatment components and treating devices.

2. The operation status of the system as observed in the field or taken from recent monitoring reports on file with the City.

3. Pumping need of the septic tank(s).

4. Any observable problems or needed repairs requiring immediate attention.

5. An estimate of remaining usable area on the parcel to support repair or expansion of the existing soil absorption field if no known expansion site has been designated for the system. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.9. OWTS MANAGEMENT PROGRAM

A. The City will develop, adopt and implement, by December 31, 2004, a Wastewater Management Plan (WMP) in consultation with the Environmental Review Board, Wastewater Advisory Committee, 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:

1. Identify its management objectives;

2. Evaluate whether its current program is adequate;

3. Determine both an appropriate management program, and the necessary program enhancements to achieve its management objectives and public health and environmental goals; and

4. Establish a funding structure.

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 OWTS 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 OWTSs 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. Inspection of OWTSs as prescribed by this LCP, the WMP and all applicable regulations;

6. 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;

7. Required performance monitoring for complying with specific water quality criteria where applicable;

8. Requirements for a regional receiving water monitoring program, including surface and groundwaters, designed to detect impacts from any OWTS, and developed in coordination with the Los Angeles Regional Water Quality Control Board.

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. (Ord. 393 § 4, 2015; Ord. 303 § 3, 2007)

18.10. CIVIC CENTER WASTEWATER TREATMENT FACILITY

A. CDP Required. A CDP shall be required for construction of each phase of the Civic Center Wastewater Treatment Facility (CCWTF), and associated infrastructure including, but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells, except for those activities that are exempted pursuant to LIP Section 13.4.

B. The CCWTF shall maximize the use of reclaimed water produced by the facility and, where feasible, to substitute the reclaimed water for potable water uses. As such, for purposes of LIP Chapter 4 (ESHA) and LIP Chapter 17 (Water Quality), the CCWTF shall be considered a necessary water supply project that includes incidental public service purposes, including but not limited to, burying cables and pipes or inspection and maintenance.

C. All new development, excluding minor remodels and additions to existing structures, approved within the Prohibition Area shall be conditioned to install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.

D. The City shall encourage the retrofit of existing development to connect to reclaimed water lines when available and the substitution of reclaimed water for as many existing potable water uses as feasible.

E. Offsite pipelines and ancillary infrastructure:

1. Pipelines and ancillary infrastructure associated with the project, such as but not limited to pump stations, generators, and wells not located on the treatment plant site, shall be located underground whenever feasible and/or in disturbed areas, especially under existing paving, as much as possible to avoid ESHA, native trees, trails, public recreational use areas (such as within parks), and visual impacts.

2. New offsite pipelines and ancillary infrastructure shall be sited and designed to avoid impacts to ESHA to the maximum extent feasible. Any temporary impacts to ESHA from excavation, trenching, or other construction disturbance shall be fully restored. Permanent impacts to or loss of ESHA shall be offset by either: (1) habitat restoration; (2) habitat conservation; or (3) payment of an in lieu fee in accordance with LIP Section 4.8.1. The applicant shall provide a preliminary calculation of any impact areas for review and approval by the City Biologist as part of the CDP

application and a final calculation prior to issuance of a grading permit for the development affecting the ESHA resources.

F. Supplementary Application Requirements. In addition to any other application materials required by this LCP, the application for a CDP for the CCWTF and associated infrastructure including but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, groundwater injection wells and any future phase shall include the following:

1. An engineering report that includes a project description and the basis of design for collection system flows, anticipated treatment system performance requirements, construction requirements, effluent disposal methods, water reclamation capacity and a facility site plan.

G. Findings. A CDP for the CCWTF, (or modifications to the facility) and associated infrastructure including, but not limited to: pump stations, wastewater collection and recycled water distribution pipelines, and groundwater injection wells shall only be approved if the City makes all applicable findings required in the LCP and the following:

1. The proposed project is designed to serve a capacity of development that does not exceed the amount allowed by the LCP.

2. The proposed project is consistent with regulatory requirements of the City of Malibu and applicable agencies, including, but not limited to, the Regional Water Quality Control Board.

3. The project, including any proposed new or modified method of effluent disposal, is consistent with policies requiring protection of marine resources, riparian habitat and water quality.

H. System Design and Performance Requirements.

1. The build out design capacity of the CCWTF, including all phases, shall not exceed the amount of development allowed by the LCP.

2. The project shall comply with the requirements contained in this chapter, current Guidelines of the Regional Board or such other requirements of the City of Malibu, whichever are more stringent.

3. The CCWTF treatment plant and all associated infrastructure shall be sited and designed in conformance with LIP Section 3.4.4 and all applicable LCP policies and standards.

4. Pipeline crossings of streams and/or encroachment into riparian/wetland areas shall be avoided except where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effect. Such crossings or encroachments shall be sited in disturbed areas or underground to the maximum extent

feasible, and shall be designed to be the least environmentally damaging alternative, given consideration of both construction and operation/maintenance.

5. Effluent disposal methods shall be the least environmentally damaging feasible alternatives, and shall maximize reuse of recycled wastewater as much as feasible in accordance with LCP policies.

6. The facility shall incorporate industry-standard fail safes, redundancies, and other such secondary protection measures as necessary to minimize the potential for environmental damage.

7. All segments of pipeline crossing over any portion of the Malibu Coast Fault shall be designed to resist earth movement to the maximum extent feasible through the use of flexible piping material.

8. The removal of ESHA for the purpose of installing landscaping for the purpose of disposing of reclaimed water shall be prohibited. Irrigation of ESHA with reclaimed water shall also be prohibited. (Ord. 393 § 4, 2015)

18.11. WATER SYSTEMS/WASTEWATER MANAGEMENT

A. The expansion of existing community sewer facilities (package wastewater treatment plants, dedicated sewer service systems, existing trunk lines, etc.) in existing developed areas shall be limited in capacity to the maximum level of development allowed by this LCP.

B. The formation of Onsite 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 OWTSs. 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. A City-wide public sewer system may be designed and proposed where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development which does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP. In particular, the proposed method of effluent disposal shall be required to be consistent with policies requiring the protection of marine resources, riparian habitat and water quality.

D. 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.

E. Additional water storage facilities and/or new pipelines may be allowed in the City to replace deteriorated or undersized facilities and/or to ensure an adequate source of domestic and fire protection water supply during outages or pipeline interruptions provided such facilities are designed and limited to accommodate existing or planned development allowed by the Land Use Plan and are consistent with all applicable policies of the LCP.

F. Once the CCWTF begins operating, new or modified water wells within the Malibu Valley Groundwater Basin shall be allowed only in accordance with the groundwater protection zone requirements established by the California Department of Public Health. (Ord. 393 § 4, 2015)

CHAPTER 19—LOCAL COASTAL PROGRAM AMENDMENTS

19.1 PURPOSE AND INTENT

The City Council may amend the Local Coastal Land Use Plan, the Official Zoning Map, or the text of Local Coastal Implementing Ordinances when required by public necessity, convenience and general welfare or protection of coastal resources, or where required by specific policies in the Land Use Plan by following the procedure specified in this Chapter. For purposes of this Chapter, amendments of a certified Local Coastal Program includes, but is not limited to, any action by the City that authorizes the use of a parcel of land other than a use that is designated in the certified local coastal program as a permitted use of the parcel, except for temporary uses as defined in Chapter 2 of the Malibu LIP (Definitions). Such amendments will not take effect until effectively certified by the Coastal Commission.

19.2 APPLICATION

19.2.1 Proposals

A. Initiation

An amendment to the Official Zoning Map, or to the LCP Land Use Plan or Implementing Ordinances, may be initiated by:

1. Resolution of the City Council; or by

2. Resolution of intention of the Planning Commission;

3. Property owners, their duly authorized agents, by filing a complete and verified application with the Planning Commission for amendments to the LCP involving their property.

4. Any person authorized to undertake a public works project or proposing an energy facility development may request to amend the local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the local coastal program was before the Coastal Commission for certification.

B. Contents of Amendment Applications

The amendment application shall include:

1. Except for amendments initiated under Section 19.2.1 (A)(3) or (4) of the Malibu LIP, 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 19.3 of the Malibu LIP; a listing of members of the public, organizations, and agencies appearing at any hearing or contacted for com-

ment on the LCP; and copies or summaries of significant comments received and of the City's response to the comments.

2. All policies, plans, standards, objectives, diagrams, drawings, maps, photographs, and supplementary data related to the amendment in sufficient detail to allow review for conformity with the requirements of the Coastal Act. Written documents should be readily reproducible. An amendment to a land use plan shall include, where applicable, a readily identifiable public access component as set forth in California Code of Regulations Section 13512.

3. The application shall be accompanied by a map drawn to scale showing the location of the property concerned and the location of all highways, streets and alleys, public easements or Offers to Dedicate Public Easements and all lots and parcels of land within a distance of five hundred feet from the exterior boundaries of the property involved. The accuracy of such map shall be the responsibility of the applicant.

4. A discussion of the amendment's relationship to and effect on the other sections of the certified LCP.

5. An analysis that meets the requirements of California Code of Regulations Section 13511 that demonstrates conformity with the requirements of Chapter 6 of the Coastal Act.

6. Any environmental review documents, pursuant to CEQA, required for all or any portion of the amendment to the LCP.

7. An indication of the zoning measures or implementation that will be used to carry out the amendment to the land use plan (unless submitted at the same time as the amendment to the land use plan).

Any application made pursuant to subsection A (3) of this section shall be in writing and signed and verified by the owner of the land involved or by his authorized agent. If a person other than the owner makes the application, except as provided in subsection A (4), written authorization to act on behalf of the owner shall be submitted with such application. The application shall show or be accompanied by the legal description of the property for which the amendment is requested, and the street address or addresses, if any, or other common description of the premises.

19.2.2 Review of Filing

An amendment to a certified LCP together with all necessary attachments and exhibits shall be deemed "submitted" after having been received and found by the Planning Manager to be in proper order and legally adequate to comply with Section 19.2.1 of the Malibu LIP. The Planning Manager shall cause a date of receipt stamp to be affixed to all LCP submissions on the day they are so received and a stamp of the date of submittal on the day they are found to be properly submitted. (Ord. 303 § 3, 2007)

19.3 LCP AMENDMENT HEARING AND NOTICE

Upon receipt in proper form of an LCP amendment application, or upon receipt of a Resolution Of Intention from either the Planning Commission or City Council, the Planning Commission shall set a public hearing for a time no earlier than 6 weeks from the filing of the amendment proposal.

19.3.1 Notice of Document Availability

Notice of the availability of review drafts of the proposed LCP amendment materials and transmittal of said documents pursuant to noticing requirements in (a) and (b) of this section shall be made as soon as such drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by the City. Review drafts shall also be made readily available for public perusal in local libraries, in the City administrative offices, and at the Coastal Commission District office.

A. At a minimum, all notices for public review sessions, availability of review drafts, studies, or other relevant documents or actions pertaining to the proposed amendment of the LCP shall be mailed to:

   1. Any member of the public who has so requested;

   2. Each local government contiguous with the area that is the subject of the Amendment;

   3. Local governments, special districts, or port or harbor districts that could be directly affected by or whose development plans should be considered in the Amendment;

   4. Regional, state and federal agencies that may have an interest in or be affected by the amendment;

   5. Local libraries and media;

   6. The Coastal Commission.

   Any reference in this subchapter to “interested parties” or “public agency” shall include the aforementioned persons or groups.

B. Proposed LCP amendment documents including review drafts shall be made available at no cost to relevant state agencies and to other interested persons and agencies upon request.

19.3.2 Notice of Public Hearings

Notice of public hearings shall be given at least ten (10) days prior to the hearing. Such notice shall state the nature of the proposed change, location of the affected area, and the time(s) and place(s) of the scheduled hearing(s) and for accepting comments on the proposed amendment.

A. For Amendments to the LCP Land Use Plan or text of the Implementing Ordinances, the notice shall be provided by mail to parties identified in section 19.3.1(A) of the Malibu LIP above and one of the following additional procedures:

1. By placing a display advertisement of at least one-fourth page in a newspaper having the greatest circulation within the area affected by the proposed action; or

2. By placing an insert within any generalized mailing sent by the City to property owners and tenants in the area affected by the proposed action.

B. For Amendments to the LCP Zoning Map that propose to reclassify property, the notice shall be provided by mail to parties identified in section (a) above and by one of the following additional procedures:

1. Notice for the hearing shall be mailed, post prepaid, to all owners and tenants of property within a radius of five hundred (500) feet of the exterior boundaries of the property or properties involved in the amendments, excluding roads. In addition, a legal advertisement shall be placed in the newspaper of greatest circulation within the area affected by the proposed action.

2. In the event the number of owners to whom notice would be sent pursuant to (1) above is greater than one thousand (1,000), notice may at the discretion of the City be given at least ten (10) days prior to the hearing by either of the alternate procedures explained in Section (A) above.

C. Following a public hearing, the Planning Commission shall recommend approval, modification or denial of the proposed amendment to the City Council. The recommendation shall be by resolution carried by the affirmative vote of not less than the majority of the entire Commission. It shall be transmitted to the City Council within forty (40) days after the rendering of a decision. Such decision is final and conclusive and may not be reconsidered except upon referral by the City Council.

19.4 COUNCIL HEARING AND NOTICE

After receipt of the Planning Commission's recommendation, the City Council shall hold a public hearing and shall give notice in the same manner as required for the Planning Commission in Section 19.3 of the Malibu LIP above.

19.5 COUNCIL DECISION

After the required hearing, the City Council shall take either or both of the following actions on the Amendment, as applicable:

A. For amendments to the Local Coastal Land Use Plan, by resolution, approve, modify or deny the proposed amendments;

B. For amendments to the Local Coastal Implementing Ordinances or Zoning Map, by adopting an ordinance approving or modifying the amendment or denying the proposal by adopting a resolution of denial.

19.6 REQUIRED FINDINGS

Before approval of any LCP Amendment, the City Council must make the finding that such amendment meets the requirements of, and is in conformity with, the LCP and the policies of Chapter 3 the California Coastal Act.

19.7 CERTIFICATION OF LOCAL COASTAL PROGRAM AMENDMENTS

19.7.1 Submittal to Coastal Commission

Any amendment approved by the City shall be submitted to the Coastal Commission in accordance with Sections 30510, 30512, 30513 and 30514 of the Public Resources Code and Sections 13551 and 13552 of the California Code of Regulations.

19.7.2 Effective Certification

An amendment to the Commission-certified Local Coastal Program shall not become effective after City Council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and is effectively certified by the California Coastal Commission pursuant to Chapter 6, Article 2, of the California Coastal Act.

19.7.3 Amendments Pursuant to PRC 30515

LCP Amendments approved by the Coastal Commission pursuant to Public Resources Code Section 30515 shall be effectively certified upon final action by the Coastal Commission.

Appendix 1 TABLE B PERMITTED USES

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
•	**Not permitted (Prohibited)**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential[17]	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Manufactured homes	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multifamily residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments[18])	•	•	CUP[19]	CUP[19]	•	•	•	•	P[20]	•	•	•	•	•	•	•
Second units	A[1]	A[1]	A[1]	A[1]	•	•	•	•	•	•	•	•	•	•	•	•
Mobile home parks	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Mobile home as residence during construction	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest units, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A[1]	A[1]	A[1]	A[1]	•	•	•	•	•	•	•	•	•	•	•	•
Residential care facilities (serving 6 or fewer persons)	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•
Large residential care facilities (serving 7 or more persons)	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL (continued)																
Small residential care facilities (serving 6 or fewer persons)	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Single Room Occupancy Facility	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•
Small family day care (serving 6 or fewer persons)	A	A	A	•	•	•	•	•	•	•	•	•	•	•	•	•
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	•	•	•	•	•	•	•	•	•	•	•	•	•
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	•	•	•	•	•	•	•	•	•	•	•	•
AGRICULTURAL/ANIMAL-RELATED																
Agricultural employee housing, as an accessory use, animal related	A	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Agricultural employee housing, as an accessory use crop related	A	A	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•
Domestic animals kept as pets or for personal use	A	A	A	A	A	•	•	•	•	•	•	•	•	•	•	•
Equestrian and hiking trails (public and private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Equestrian riding and training facilities and activities including boarding of horses and domestic animals, tournaments, shows and contests (including accessory uses such as club house with food and beverage service, pro shop, tack shop, riding rings, boarding/training/show facilities, barns, parking lots, sports courts, and living accommodations for members, their guests, participants, employees and persons required for the operation and maintenance of such facilities)	•	•	•	•	•	CUP	•	•	CUP	•	•	CUP	•	•	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
AGRICULTURAL/ANIMAL-RELATED (continued)																
Grazing of cattle, horses, sheep or goats, including the supplemental feeding of such animals, provided that such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises	P[3]	•	•	•	•	CUP[3]	•	•	•	•	•	•	•	CUP[13]	•	•
Raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals	P	A	•	•	•	CUP	•	•	•	•	•	•	•	CUP[13]	•	•
Boarding of horses as a commercial use	MCUP[3]	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Raising of hogs or pigs	P	•	•	•	•	CUP	•	•	•	•	•	•	•	CUP[13]	•	•
Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature	P	•	•	•	•	CUP	•	•	•	•	•	•	•	CUP[13]	•	•
Greenhouses	P	•	CUP	•	•	CUP	•	•	•	•	•	•	•	CUP[13]	•	•
Raising of crops (field, tree, bush, berry row, nursery stock, etc.) provided no retail sale from the premises	A	A	CUP	•	•	•	•	•	•	•	•	•	•	CUP[13]	•	•
Wildlife preserves	•	•	•	•	•	P	•	•	•	•	•	•	P	•	•	•
RETAIL USES																
Book stores	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Convenience stores	•	•	•	•	•	•	•	•	•	CUP	CUP	CUP	•	•	•	•
Food markets	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Hardware, garden supply stores	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Liquor stores	•	•	•	•	•	•	•	CUP	CUP	CUP	CUP	CUP	•	•	•	•
Plant nurseries	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Prescription pharmacies	•	•	•	•	•	•	A	P	P	P	P	P	•	•	•	•
Stationary supplies	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Visitor-oriented goods such as recreational equipment and clothing, souvenirs, local arts/crafts, and similar uses	•	•	•	•	•	•	•	MCUP	•	P	P	•	•	•	•	•
GENERAL SERVICES																
Bakeries (no on-site seating)	•	•	•	•	•	•	•	P	P	P[4]	P[4]	P	•	•	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
GENERAL SERVICES (continued)																
Barber shops, beauty salons	•	•	•	•	•	•	•	P	P	P[4]	P[4]	P	•	•	•	•
Laundry, dry cleaners	•	•	•	•	•	•	•	P	P	P[4]	P[4]	P	•	•	•	•
Miscellaneous services including travel agencies, photocopy services, photographic processing and supplies, mailing services, appliance repair, and similar uses	•	•	•	•	•	•	•	P	P	P[4]	P[4]	P	•	•	•	•
OFFICE/HEALTH USES																
Banks, financial institutions	•	•	•	•	•	•	•	P	P	P[4]	P[4]	P	•	•	•	•
Health care facilities	•	•	•	•	•	•	•	•	CUP	CUP[4]	CUP[4]	CUP	•	CUP	•	•
Medical, dental, physical therapy, and veterinary clinics and offices	•	•	•	•	•	•	P	P[5]	P[5]	P[4,5]	P[4,5]	P[5]	•	•	•	•
Professional offices	•	•	•	•	•	•	P	P	P	P	P	P	•	•	•	•
DINING, DRINKING, AND ENTERTAINMENT																
Amphitheatre	•	•	•	•	•	•	•	•	•	P	P	•	•	•	•	•
Bars	•	•	•	•	•	•	•	•	CUP	CUP	CUP	CUP	•	•	•	•
Live entertainment	•	•	•	•	•	•	•	•	CUP	CUP	CUP	CUP	•	•	•	•
Movie theaters	•	•	•	•	•	•	•	•	•	CUP	CUP	CUP	•	•	•	•
Refreshment stands, ice cream stands, and other fixed location outdoor food vending stands	•	•	•	•	•	•	•	•	•	CUP	CUP	CUP	•	•	•	•
Restaurants	•	•	•	•	•	•	•	CUP[6]	CUP[7]	CUP[7]	CUP[7]	CUP[7]	•	•	•	•
AUTOMOTIVE RELATED USES																
Vehicle washing/detailing	•	•	•	•	•	•	•	CUP[8]	CUP[8]			CUP	•	•	•	•
Service stations (without convenience market)	•	•	•	•	•	•	•	•	CUP	CUP	CUP	CUP	•	•	•	•
Towing and automobile storage	•	•	•	•	•	•	•	•	•	•	•	CUP	•	CUP	•	•
RECREATION AND LEISURE																
Camping	•	•	•	•	•	P	•	•	•	•	•	•	P	•	•	•
Guest Cabins						P										
Community stage theaters	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Cultural and artistic uses (such as museums, galleries, performing arts venues)	•	•	•	•	•	CUP	•	CUP	CUP	CUP	CUP	CUP	•	•	•	•
Dance studios	•	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•
Golf driving ranges	•	•	•	•	•	•	•	•	CUP	CUP	CUP	CUP	•	•	P	•
Health clubs	•	•	•	•	•	•	•	P	P	P	P	P	•	•	P	•
Hotels	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RECREATION AND LEISURE (continued)																
Motels, bed and breakfast inns	•	•	•	•	•	•	•	•	•	CUP	CUP	•	•	•	•	•
Parks, beaches, and playgrounds	CUP	CUP	CUP	CUP	•	P	•	CUP	CUP	CUP	CUP	CUP	P	CUP	P	•
Public Beach Accessway	P	P	P	P	P			P	P	P	P	P	P			
Recreation facilities (swimming pools, sandboxes, slides, swings, lawn bowling, volleyball courts, tennis courts and similar uses)	•	•	•	•	•	A	•	•	CUP	CUP[9]	CUP[9]	CUP	P	P[14]	P	•
Recreation facilities (neighborhood - for use by surrounding residents and operated by a non-profit corporation or neighborhood association for non-commercial purposes)	•	CUP	CUP	CUP	•	•	•	CUP	CUP	•	•	CUP	•	•	•	•
Recreational vehicle parks	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	P
Sports courts (lighted)	•	•	•	•	•	•	•	CUP	CUP	CUP[9]	CUP[9]	CUP	•	•	•	•
Sports fields (lighted)	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP[11]	•	•
PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES																
Charitable, philanthropic activities	•	•	•	•	•	•	•	P[10]	P[10]	P[10]	P[10]	P[10]	•	CUP	•	•
Churches, temples, and other places of worship	•	•	CUP	•	•	•	•	CUP	CUP	CUP	CUP	CUP	•	CUP	•	•
Community centers	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•
Day care facilities, nursery schools	CUP	CUP	CUP	•	•	•	•	CUP	CUP	CUP	CUP	CUP	•	CUP	•	•
Educational (non-profit) activities	•	•	•	•	•	•	•	P	P	P	P	P	P	CUP	•	•
Educational institutions (public or private)	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•
Emergency communication and service facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP[4]	CUP[4]	CUP	CUP	CUP	CUP	CUP
Emergency Shelters	•	•	•	•	•	•	•	•	•	•	•	P	•	P	•	•
Farmers' markets operated by a nonprofit charitable organization	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•
Helipad sites	CUP	•	•	•	•	•	•	•	•	•	•	•	•	CUP[12]	•	•
Government facilities, including police and fire stations	•	•	CUP	•	•	•	•	P	P	P[4]	P[4]	P	•	P	•	•
Libraries, museums	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•
Maintenance yards	•	•	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•
Public utility facilities	CUP	CUP	CUP	CUP	•	•	•	CUP	CUP	CUP[4]	CUP[4]	CUP	CUP[15]	CUP	•	•
Research institutions	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
PUBLIC, QUASI-PUBLIC, OR NON-PROFIT USES (continued)																
Residential care facilities for the elderly	•	•	•	•	•	•	•	•	CUP	CUP	CUP[4]	CUP[4]	•	CUP[13]	•	•
Wastewater storage and hauling	•	•	•	•	•	•	•	•	•	•	CUP[16]	CUP	•	•	•	•
Wireless telecommunications antennae and facilities	WTF	•	•	•	•	WTF	WTF	WTF	WTF	WTF	WTF	WTF	WTF	WTF	WTF	WTF
CONSTRUCTION/LIGHT INDUSTRIAL USES																
Construction services (neighborhood-serving)	•	•	•	•	•	•	•	•	CUP	•	•	CUP	•	•	•	•
Manufacturing, processing, or treatment of products	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•
Masonry and building supplies	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•
Metal welding	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•
Research and development, testing facilities	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•
Self-storage	•	•	•	•	•	•	•	CUP	CUP	•	•	CUP	•	•	•	•
Wholesale, storage, and distribution	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•
OTHER USES																
Uses permitted by right that operate between the hours of 11:00 p.m. to 7:00 a.m.	•	•	•	•	•	•	MCUP	MCUP	•	•	•	•	•	•	•	•
Mixed use (commercial and residential)	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•

Notes:
1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.

18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.

(Ord. 449 § 4, 2019; Ord. 393 § 4, 2015; Ord. 373 § 3, 2013; Ord. 366 §§ 3(A) and (B), 2012; Ord. 303 § 3, 2007)

Appendix 2 MAPS

Zoning
ESHA Overlay Map
Overlay Districts
Post-LCP Certification Permit and Appeal Jurisdiction
Civic Center Prohibition Area Map
Malibu Coast Estate Planned Development Map 1

Appendix 2 MAPS

City of Malibu Local Coastal Program
AMENDMENT LIST

LCPA No.	Coastal Commission Certification Date	Amending Resolution List	Amending Ordinance List	Affected Sections
05-001	April 10, 2007	06-14; augmented by 06-61; superseded by 07-04	288; augmented by 303	Adds LIP § 13.29; amends land use and zoning maps [LIP § 3.1], LIP Ch. 18 [18.1—18.7, 18.9, 18.10] and §§ 2.1, 2.2, 3.4.1, 3.5.3, 3.6, 3.8, 3.9.1, 3.12.5, 3.13.3—3.13.7, 4.4.2, 4.4.4, 4.6.2, 4.7.6, 4.8.1, 4.16, 4.18, 4.26, 4.45, 5.1—5.4, 6.1, 6.5, 7.2, 7.8.2, 7.8.3, 7.10, 8.1, 8.3, 8.4, 9.4, 10.4, 10.6, 11.3, [11.5], 12.1, 12.6, 12.7.1, 12.9.1, 13.4.9, [13.4.10], [13.6.1], 13.6.4, 13.7, [13.8], [13.10], [13.10.1], [13.11], 13.13.1, 13.13.6, [13.13.3—13.13.5], [13.14], [13.14.1], 13.17, [13.18.1], [13.18.2], [13.20.1], 13.20.2, 13.23, [13.24], [13.24.2—13.25], 13.25.5 [13.26.5], 13.26.6, 13.27.1, [13.27.4], 13.27.5, 13.29, 15.2, 15.4.1, 17.10, 19.2.2, Table B and LUP §§ 2.45, 2.56—2.62, 2.86, 3.4, [3.7], 3.26, 3.40, 3.42, 3.50, 3.89, 3.93, 3.94, 3.95, 4.1, 4.16, 4.18, 4.26, 4.45, 5.1, 5.5, 5.17, [5.26], 5.29, 6.3, 6.9, 6.12, 6.17, 6.18, 6.24, 6.29, 6.36 and 7.6; repeals and replaces LIP § 3.14; repeals LIP §§ 12.2 and 17.3, various provisions
05-002	January 7, 2009	NA	304; superseded by 331; repealed by 350; superseded by 364	Adds LIP § 3.4.2; amends LIP §§ 3.3(C)(3), 3.3(B)(3), and 6.5(E)
06-001	January 7, 2009	06-71	302	Rezone of property at 5920 Paseo Canyon from POS to SFL
06-003	June 10, 2010	08-52; amended by 10-14	329; amended by 346	Adds LIP § 3.4.3
06-004	July 10, 2008	07-15	307	Rezone of property at 22706 Pacific Coast Highway (City to update maps)
07-001	Jan. 11, 2012	09-03; superseded by 11-45	336; superseded by 362	Adds LIP §§ 6.5(E)(2)(f) and (g) Adds LUP § 6.18(f)

City of Malibu Local Coastal Program
AMENDMENT LIST

LCPA No.	Coastal Commission Certification Date	Amending Resolution List	Amending Ordinance List	Affected Sections
08-002	Nov. 18, 2010	08-67; superseded by 10-49	332; superseded by 352	Rezone of property at 21200 PCH from CV-1 to MFBF; adds LIP §§ 3.3(B)(3)(d) and (e)
08-004	Nov. 18, 2010	NA	335	Adds LIP § 13.13.1(A)(e)[5]
09-002	Nov. 18, 2010	09-49; superseded by 11-05	340; superseded by 355	Amends LIP §§ 7.8.3 and 7.8.4 and LUP §§ 5.29 and 5.30
09-004	Feb. 8, 2012	NA	366; repeals 345	Amends LIP §§ 3.3(N)(3)(b), 4.6.2, 6.5(B) and Table B
10-001	May 8, 2013	11-23	373; repeals 359	Adds LIP §§ 3.9 and 3.10; renumbers §§ 3.9—3.14 to be 3.11—3.16; amends §§ 2.1, 3.3(B)(3)(d) and (N), 3.5.3(A), 3.12.5(A)(2), 8.3(B) and 13.27.1(A)
12-001	Nov. 4, 2015	15-63	398	Amends LIP § 3.3.Q and LUP § 2.78 and Ch. 5 § C.2; adds Malibu Coast Estate Planned Development Map 1 to Appendix 2 of LIP; repeals Ord. 379
ZTA No. 12-002	September 9, 2019	NA	449	Adds LIP §§ 3.4.4, 3.6.1.2, 3.11.5, 3.11.6 and 13.30; amends LIP §§ 2.1, 3.4, 3.6, 3.7, 3.11, 3.14, 8.3, Appendix 1 Table B
12-004	August 26, 2019	19-33	NA	Adds LUP Policy 2.90; replaces LUP Public Access Map
13-002	May 13, 2015	NA	393; repeals 386	Adds LIP § 18.10 and maps; amends LIP §§ 2.1, 3.4.4, 13.6.4(H)—(J), 15.2(B)(8), 18.2—18.4, 18.6, 18.11(F) and Table B; renumbers §§ 18.6 to be 18.9, 18.7—18.9 to be 18.6—18.8 and 18.10 to be 18.11
ZMA No. 13-002	September 9, 2019	NA	449	Adds the Affordable Housing Overlay Map to Appendix 2
17-001	April 12, 2018	18-01	430	Rezones parcel APN 4452-005-029 from OS to CV-2
18-004	March 7, 2019	NA	445	Adds LIP §§ 5.8 and 13.4.11; amends LIP §§ 3.3(I)(2), 3.6(M), 13.4.1—13.4.9, 13.13.1(A) and 13.14(H)
19-001	November 25, 2019	19-49	NA	Amends LUP Policy 2.20
19-002	August 12, 2020		461	Amends LIP Ch. 2.1 and §§ 3.5.3(A) and 3.6(R)(1)