

RESOLUTION NO. 19-54

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 14-001 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY POLICY 3.18 IN CHAPTER 3 PERTAINING TO A CITYWIDE PROHIBITION OF PESTICIDES, INCLUDING INSECTICIDES, HERBICIDES, RODENTICIDES OR ANY TOXIC CHEMICAL SUBSTANCE WHICH HAS THE POTENTIAL TO SIGNIFICANTLY DEGRADE BIOLOGICAL RESOURCES (CITYWIDE)

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

SECTION 1. Recitals.

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

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

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

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

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

F. On May 29, 2018, the City Council authorized Councilmember Rosenthal to request that the League of California Cities Environmental Quality Policy Committee consider adding the potential banning of pesticides, herbicides, rodenticides and

insecticides throughout California as a priority issue and directed staff to proceed with a LCPA regarding the use of pesticides, herbicides, rodenticides and insecticides.

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

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

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

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

SECTION 2. Environmental Review.

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

SECTION 3. Local Coastal Program Amendment Findings.

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

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

2. LCP Land Use Plan (LUP) Policy 3.18 currently states that “[t]he use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas (ESHA), shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration.” The LCPA will amend Policy 3.18 to expand the list of poisons that can degraded biological resources by adding rodenticides and making the prohibition against pesticides citywide.

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

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

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

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

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

SECTION 5. Approval.

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

SECTION 6. Submittal to California Coastal Commission.

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

SECTION 7. Effectiveness.

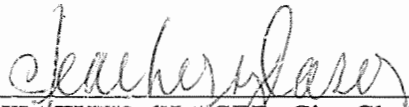
The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

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

PASSED, APPROVED AND ADOPTED this 9th day of December 2019.


KAREN FARRER, Mayor

ATTEST:


HEATHER GLASER, City Clerk
(seal)

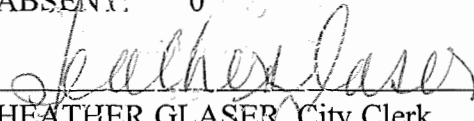
Date: December 9, 2019

APPROVED AS TO FORM:


CHRISTI HUGIN, City Attorney

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

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



HEATHER GLASER, City Clerk
(seal)