

**CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 16-23**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU RECOMMENDING THE CITY COUNCIL APPROVE LOCAL COASTAL PROGRAM AMENDMENT NO. 14-001, AMENDING THE MALIBU LOCAL COASTAL PROGRAM WITH PROVISIONS PROHIBITING 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**

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. The City of Malibu is located within the Santa Monica Mountains National Recreation Area, which supports natural resources, and an abundant and diverse wildlife community, including bobcats, coyotes, eagles, owls and mountain lions.

B. Anticoagulant rodenticides are poisonous bait products available for use on private property in the City of Malibu used to combat the infestation of rodents in business and residential properties.

C. Anticoagulant rodenticides are used as bait, which the rodents ingest, causing lethal internal hemorrhaging.

D. Pets and wildlife become sick or die from ingesting anticoagulant rodenticides directly or due to the secondary exposure after consuming the dead or dying rodents that ingested the rodenticide.

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

F. On October 10, 2014, the California Coastal Commission (CCC) certified the County of Los Angeles Santa Monica Mountains Local Coastal Program (County LCP) that contains provisions prohibiting the use of anticoagulant rodenticides.

G. On November 24, 2014, the City Council considered an item to direct staff to initiate a Local Coastal Program amendment prohibiting the use of anticoagulant rodenticides and directed staff to come back with a resolution to initiate said amendments.

H. On December 8, 2014, the City Council adopted Resolution No. 14-73 initiating an amendment to the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC) Title 17, and directed staff to issue a Notice of Availability consistent with LCP Local Implementation Plan (LIP) Section 19.3.1, to prohibit the use of anticoagulant rodenticides in Malibu.

I. On August 11, 2015, the Malibu Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) met to discuss proposed amendments to the LCP. The discussion was continued to a future ZORACES meeting in September so that staff could follow up further with the City Attorney on the viability of a citywide ban, instead of just a prohibition within Environmentally Sensitive Habitat Area (ESHA).

J. On September 21, 2015, ZORACES reconvened and recommended the following parallel courses of action: 1) Staff prepare the LCPA using Los Angeles County's language and approach, by integrating the provisions prohibiting the use of anticoagulant rodenticides that were included in the state certified County LCP for a hearing before the Planning Commission; 2) Staff coordinates with the CCC and Los Angeles County to request a legal opinion from the California Attorney General on the validity of an anticoagulant rodenticide ban in a Local Coastal Program and implementation as a condition of approval in coastal development permits; 3) The City lobby the CCC and State Legislature to influence state policy to ban the use of anticoagulant rodenticides, or allow local governments to regulate their use to the level allowed by federal law; and 4) The City develop a more robust public outreach and education campaign to inform businesses and residents about the harmful effects of anticoagulant rodenticides and encourage alternative rodent control measures to eliminate the use of anticoagulant rodenticides within the City.

K. 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.

L. On December 7, 2015, the Planning Commission continued the matter to a date uncertain.

M. On December 24, 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.

N. On January 19, 2016, the Planning Commission held a duly noticed public hearing on LCPA No. 14-001, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record and directed staff to bring back a resolution on February 16, 2016 to include the following: 1) propose amendments to the LCP to prohibit the use of anticoagulant rodenticides citywide; 2) incorporate the provisions prohibiting the use of anticoagulant rodenticides that were included in the certified County LCP into the City's LCP; 3) submit the amendments to the CCC at the soonest practical date to effectuate the prohibition; 4) encourage the City Council

to make the prohibition of anticoagulant rodenticides a legislative priority and urge the California Legislature to either eliminate local preemption or ban anticoagulant rodenticides statewide; and 5) and take other actions to identify and promote rodent control methods that do not involve use of poisons.

O. On February 16, 2016, the Planning Commission held a duly noticed continued public hearing on LCPA No. 14-001, reviewed and considered the staff reports, reviewed and considered written reports, public testimony, and other 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 LCP amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect.

Section 3. Local Coastal Program Amendment Findings.

Pursuant to LIP Section 19.3.2(C), the Planning Commission recommends that the City Council approve LCPA No. 14-001 based on the following findings:

A. Based on evidence in the whole record, the Planning Commission hereby finds that the proposed amendment meets the requirements of, and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act. 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.

B. LCP Land Use Plan (LUP) Policy 3.18 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.” LUP Policy 3.42 carries forward policies that minimize the impact of new development on ESHA. The provisions included in the LCPA fulfill and promote these policies 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.

C. To fulfill LUP policies, the LCPA includes amendments to LIP Sections 3.12.1 and 3.5.3, incorporating development standards to ensure new development is designed and constructed in a manner that minimizes and mitigates impacts from toxic chemical substances to the coastal resources, such as the surface and ocean water quality, ESHA, and marine, wildlife and riparian habitat, where they are unavoidable. 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.

Pursuant to LIP Section 19.3.2(C), the Planning Commission hereby recommends that the Local Coastal Program be amended as stated below.

1. Add LUP Chapter 5, Sections C.13.5.66 and C.13.5.67 to read as follows:

13. Anticoagulant Rodenticides

- 5.66 The use of anticoagulant rodenticides which has the potential to significantly degrade biological resources, shall be prohibited.

- 5.67 The City shall work toward a poison free environment by exploring the feasibility of eliminating the use of all rodenticides at the soonest practicable date, and identify and promote rodent control methods that do not involve the use of poisons.

2. Add LUP Chapter 3, Section C.5.3.156 to read as follows:

5. Anticoagulant Rodenticides

- 3.156 The use of anticoagulant rodenticides which has the potential to significantly degrade biological resources, shall be prohibited.

3. Amend LIP Section 3.12.1(E) to read as follows:

- E. Landscape Plans.

1. 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.

2. The use of anticoagulant rodenticides shall be prohibited.

4. Add LIP Section 3.5.3(D) to read as follows:

- D. Anticoagulant Rodenticide Abatement: The use of anticoagulant rodenticides shall be prohibited.

Section 5. Other Recommendations.

The Planning Commissions recommends that the City Council also pursue the following actions:

Strategy 1 – Direct that code enforcement of MMC Chapter 8.32 pertinent to rodent control at commercial properties be on a pro-active, instead of reactive, basis.

Strategy 2 – Direct staff to incorporate as a requirement for commercial tenant improvements, an executed acknowledgement by the property owner, and tenants/operators, as to their responsibility for compliance with MMC Chapter 8.32 (Solid Waste and Recyclable Materials).

Strategy 3 – Utilize the City inspection process for MMC Chapter 13.04 to also inspect for compliance with MMC Chapter 8.32.

Strategy 4 – Expand the Clean Bay Restaurant inspection process to include other food-related commercial uses.

Strategy 5 – As a landlord, the City could work with its existing tenants/property managers to encourage poison-free pest control, and could mandate it from future master leasees and tenants.

Strategy 6 – Utilize an aggressive educational outreach strategy, such as:

- a. Educational messaging on City TV
- b. Articles in City's quarterly newsletter
- c. Information to City webpages
- d. Informational flyers with permit approvals
- e. Outreach to organizations (commercial realtors, homeowners associations, etc.) who could then communicate with property owners/managers/occupants/tenants.

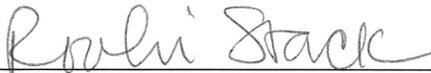
Strategy 7 – Lobby the California Legislature to either eliminate local preemption or ban the use of anticoagulant rodenticides statewide.

Strategy 8 – Work through City membership organizations, such as the California Contract Cities Association and the California League of Cities, to encourage other jurisdictions to promote education on rodenticides and lobby the Legislature for change.

Section 6. Certification.

The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of February 2016.

  
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ROOHI STACK, Planning Commission Chair

ATTEST:

  
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KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 16-23 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 16<sup>th</sup> day of February 2016, by the following vote:

AYES:	3	Commissioners:	Mazza, Pierson, Stack
NOES:	2	Commissioners:	Brotman, Jennings
ABSTAIN:	0		
ABSENT:	0		

  
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KATHLEEN STECKO, Recording Secretary