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HOW TO VIEW THE MEETING: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

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Malibu City Council
Zoning Ordinance Revisions and Code Enforcement
Subcommittee (ZORACES)
Special Meeting Agenda
(to be held during COVID-19 emergency)

Thursday, April 14, 2022

3:30 P.M.

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT
[MALIBUCITY.ORG/VIDEO](https://malibucity.org/video)

Councilmember Mikke Pierson
Councilmember Steve Uhring

Call to Order

Roll Call

Approval of Agenda

Report on Posting of the Agenda – April 11, 2022

1. **Presentations**

None.

2. **Old Business**

None.

3. **New Business**

A. Approval of Minutes – August 6, 2020

Recommended Action: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of August 6, 2020.

Staff Contact: Executive Assistant Linden, 456-2489, ext. 232

B. Implementation of Land Use Policy 3.18 Addressing the Use of Rodenticides, Insecticides and Herbicides

Recommended Action: Discuss whether a policy or an ordinance to the Local Coastal Program (LCP) Local Implementation Plan (LIP) should be prepared to implement Land Use Plan Policy 3.18.

Staff Contact: Senior Planner Thompson, 456-2489, ext. 280

C. Zoning Text Amendment No. 21-005 Amending Malibu Municipal Code Chapter 17.68 (Temporary Use Permits)

Recommended Action: Discuss potential amendments to the temporary use permit (TUP) process, event criteria, and provide feedback for staff to incorporate into a draft ordinance amendment.

Staff Contact: Assistant Planning Director Fernandez, 456-2489, ext. 482

Adjournment

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 11th day of April 2022, at 12:00 p.m.



Mary Linden, Executive Assistant



Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee
Special Meeting
04-14-22

Item 3.A.

To: Councilmember Pierson and Councilmember Uhring

Prepared by: Mary Linden, Executive Assistant

Approved by: Steve McClary, Interim City Manager

Date prepared: April 11, 2022 Meeting date: April 14, 2022

Subject: Approval of Minutes – August 6, 2020

RECOMMENDED ACTION: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of August 6, 2020.

DISCUSSION: Staff has prepared draft minutes for the ZORACES Special meeting of August 6, 2020 and hereby submits the minutes to the Subcommittee for approval.

ATTACHMENT: Draft Minutes for the August 6, 2020 ZORACES Special meeting

MINUTES
ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT
SUBCOMMITTEE (ZORACES)
SPECIAL MEETING
AUGUST 6, 2020
TELECONFERENCED - VARIOUS LOCATIONS
4:00 P.M.

The following meeting was held pursuant to AB 361 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Mayor Pro Tem Peak called the meeting to order at 4:00 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Pro Tem Skylar Peak and Councilmember Jefferson Wagner

ALSO PRESENT: Bonnie Blue, Planning Director; Joyce Parker-Bozylinski, Contract Planner; and Brittany Saleaumua, Administrative Assistant

APPROVAL OF AGENDA

MOTION Councilmember Wagner moved, and Mayor Pro Tem Peak seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Saleaumua reported that the agenda for the meeting was properly posted on July 30, 2020.

DISCUSSION ITEMS

ITEM 1 Approval of Minutes – October 14, 2019
Staff recommendation: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of October 14, 2019.

MOTION Mayor Pro Tem Peak moved, and Councilmember Wagner seconded a motion to approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of October 14, 2019. The question was called, and the motion carried unanimously.

ITEM 2 Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – To Allow Stand-Alone Surface Parking Lots as a Conditionally Permitted Use

Recommended Action: 1) Review the proposed discussion items and draft Malibu Municipal Code (MMC) amendment concerning allowing stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use; and 2) Provide recommendations to staff.

Planning Director Blue introduced the item, and Contract Planner Parker-Bozylinski presented the report.

Planning Director Blue stated the amendment provided a mechanism for addressing parking at property recently purchased by the City.

John Mazza suggested not changing the look of the Civic Center area. He stated City property should have different zoning, such as I-zone. He suggested reducing the landscaping and open space requirements. He expressed concern about traffic impacts of large volume parking lots.

Norm Haynie was not available at the time of the hearing.

In response to Mr. Mazza, Planning Director Blue stated the amendment would apply citywide, not just in the Civic Center. She stated use of new parking lots would require a Conditional Use Permit (CUP). She stated drainage would be addressed by Public Works under the City's stormwater management rules. She stated the Council could choose to limit the size of parking lots.

Mayor Pro Tem Peak stated a threshold should be established for the size of parking lots and landscaping requirements.

Councilmember Wagner suggested using square footage or square yardage as a basis, rather than acreage. In response to Mayor Pro Tem Peak, Councilmember Wagner agreed landscaping requirements should be different for larger lots.

Planning Director Blue discussed the canopy standard included in the amendment.

Mayor Pro Tem Peak suggested mature trees be required.

Councilmember Wagner stated shade requirements should apply to both permeable and non-permeable surfaces.

Contract Planner Parker-Bozylinski stated the Planning Commission could include conditions in the CUP to monitor adherence to landscaping requirements.

The Subcommittee discussed options for establishing and maintaining landscaping requirements.

Mayor Pro Tem Peak stated the amendment could go to the Planning Commission. He suggested the landscaping threshold should be increased on parking lots over two acres.

The Subcommittee discussed paid parking for both private and public parking.

CONSENSUS

By consensus, the Subcommittee recommended the draft Malibu Municipal Code (MMC) amendment concerning allowing stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use be submitted to the Planning Commission with the following stipulations: 1) Include a mechanism for ensuring canopy coverage requirements are met; 2) Require canopy coverage over both permeable and non-permeable areas; 3) Solicit input from landscape architects and the City Arborist on the types and sizes of trees to be required for landscaping, whether to plant mature or young trees, and what growth rates to expect; 4) Increase landscaping requirements for lots over two acres, and request input from the Planning Commission on the increase requirements; 5) Request staff provide case study examples from other cities; 6) Lifts or subterranean parking will not be addressed at this time; 7) No requirement for including compact spaces will be included; and 8) Stand-alone parking lots will be subject to the City's Art in Public Places ordinance.

ADJOURNMENT

MOTION At 5:09 p.m., Mayor Pro Tem Peak adjourned the meeting.

Approved and adopted by the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City of Malibu on _____, 2022.

MIKKE PIERSON, Councilmember

ATTEST:

MARY LINDEN, Executive Assistant



Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Agenda Report

Zoning Ordinance
Revisions and Code
Enforcement
Subcommittee
Special Meeting
04-14-22

Item 3.B.

To: Councilmember Pierson and Councilmember Uhring

Prepared by: Jessica Thompson, Senior Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, Interim City Manager

Date prepared: April 11, 2022 Meeting date: April 14, 2022

Subject: Implementation of Land Use Policy 3.18 Addressing the Use of Rodenticides, Insecticides and Herbicides

RECOMMENDED ACTION: Discuss whether a policy or an ordinance to the Local Coastal Program (LCP) Local Implementation Plan (LIP) should be prepared to implement Land Use Plan Policy 3.18.

DISCUSSION: In 2021, after the Council adopted the California Coastal Commission's (CCC) modifications to Land Use Plan Policy 3.18, the Council adopted Resolution No. 21-33 initiating an amendment to the LIP to add provisions to enforce LUP Policy 3:18. In addition, the Council directed staff to work with community stakeholders to develop an ordinance. This report presents the outcome of meetings with community stakeholders and seeks the Subcommittee's guidance.

Background

Since 2014, the City has strived to eliminate environmentally harmful poisons from within the city limits and has taken numerous measures to restrict their use. However, the City's efforts were hampered by State law that preempted the ability of municipalities in California to create laws prohibiting the use of State-regulated chemicals. Despite regulatory obstacles, in 2019, the City approved an Earth Friendly Management Policy, which governs pest management on City-owned, managed or leased property and bans the use of rodenticides on City property and prohibits their use in connection with any contract with the City. Also, in 2019, the City Council adopted Resolution No. 19-54 amending LUP Policy 3.18, which created a policy mechanism to allow the City to create a regulatory

framework to address the use of pesticides, rodenticides, and insecticides throughout the City.

While the LCP amendment was undergoing the CCC's certification review process, to further advance the City's goals, the City added a condition of approval on newly approved coastal development permits that prohibits the use of pesticides, rodenticides, and insecticides.

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

After numerous meetings and negotiations with the California Coastal Commission, City officials, and community stakeholders, on June 28, 2021, the City Council adopted the CCC's modifications to the City's proposed LCP Land Use Policy (LUP) Policy 3.18 to read as follows:

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

At the same Council meeting, the Council directed staff to develop an ordinance to amend the LIP to add provisions to enforce LUP Policy 3:18. Similar to the City's Zoning Ordinance, the LIP is the document that outlines how to implement the City's land use policies. In addition, the Council directed staff to work with community stakeholders to develop the ordinance.

Issue

As stated, staff met several times with community stakeholders. They recommended the City adopt a policy that determines that the application of pesticides, rodenticides, and

insecticides is considered as development, rather than an ordinance, in order to expedite the implementation of LUP Policy 3:18. Attached to this report is the proposed policy that is the result of the meetings between staff and stakeholders.

While an ordinance and a policy may accomplish the same goals, each presents its own advantages and disadvantages. Below is an abbreviated summary of each:

Policy

- Process – May be adopted by the City Council by resolution and may be revised on an as-needed basis.
- Certification – Does not require certification by the CCC.
- Enforcement – The determination that the application of these chemicals is considered development may be legally challenged because, unlike an ordinance, it is not a law. In addition, terms or provisions included in the policy will not be explicitly defined in the City's Zoning Ordinance, furthering the chance that the policy may be challenged.

Ordinance

- Process – In order to adopt an ordinance, public hearings before the Planning Commission and City Council are required. In addition, amendments to the LCP require certification by the CCC. While ordinances may also be amended as needed, the public hearing and certification review process is required.
- Certification – Requires hearings before the Planning Commission and City Council, followed by certification (often coming with modifications) by the CCC.
- Enforcement – Subject to the enforcement procedures in both the Malibu Municipal Code and LCP and more difficult to legally challenge.

Since the community stakeholders have recommended that the City process a policy and the Council directed staff to prepare an ordinance, staff is seeking guidance from the Subcommittee.

STAFF FOLLOW-UP: Following comments from the Subcommittee, staff will either present the attached draft policy to the City Council or draft an amendment to the LIP for recommendation by the Planning Commission and consideration and adoption by the City Council. Should the Subcommittee recommend that staff prepare an ordinance, staff will return for further guidance on terms and other provisions to be incorporated into an ordinance.

ATTACHMENT: Draft Policy

DRAFT POLICY – IMPLEMENTATION OF LUP POLICY 3.18

1.a. Pursuant to Land Use Policy 3.18, the outdoor use of rodenticides (rodent poison) is prohibited whether in bait boxes or by other application. Insecticides and herbicides are prohibited if they are in EPA toxicity Danger (category 1), warning (category 2), or caution (category 3). To use an insecticide or herbicide with an ingredient listed in Category 1, 2, or 3 is considered development per land use policy 3.18.

Pursuant to Section VII.B of the Earth Friendly Management Policy Categories 1, 2, and 3 are as follows:

“B. Chemical Prohibitions for the Pesticide List.

Pesticides included in the pesticide use list shall not contain ingredients identified in the following sources:

1. Products listed as Toxicity Category 1, 2, or 3
2. California’s Proposition 65 list (the Safe Drinking Water and Toxic Enforcement Act of 1986, materials known to the State to cause cancer or reproductive or developmental toxicity)
3. California’s Department of Pesticide Regulation groundwater protection list (Food and Agriculture Code 13145(d))
4. Organophosphates, or organochlorines, or carbamates listed by the United States Environmental Protection Agency (Office of Pesticides Programs, Document 735-F-99-14, May 1999), or California Environmental Protection Agency, Department of Pesticide Regulation Chemical Inquiries Database
5. A known carcinogen, probable carcinogen, or possible carcinogen by the United States Environmental Protection Agency as per “List of Chemicals Evaluated for Carcinogenic Potential.”
6. Any known endocrine disruptor listed by the United States Environmental Protection Agency or the European Union, Endocrine Disruptors website”

1.b. EPA eco-exempt Category 4 products are permissible.

They are described here: <https://www.epa.gov/sites/production/files/2018-01/documents/minrisk-active-ingredients-tolerances-jan-2018.pdf>

2. The indoor use of pesticides is not regulated by this policy.

3. The city will do extended and continuing educational outreach to businesses, residents, pesticide operators/companies, gardeners, shopping centers, Chamber of Commerce, and other entities and organizations, notifying them of the restrictions, educating them as to the harm created by pesticides and offering alternative solutions. This outreach should be funded by license fees and fines.

4. As the unauthorized application of these materials is considered a possible environmental threat. Therefore, if the presence of these materials is observed it can be proactively enforced and will be fined subject to Malibu Municipal Code (MMC) Chapter 1.10 Administrative Citation and Penalties.

5. City staff will implement outreach and education citywide. If there is non-compliance Code Enforcement staff will address the violation at that time.



Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Agenda Report

Zoning Ordinance
Revisions and Code
Enforcement
Subcommittee
Special Meeting
04-14-22

Item 3.C.

To: Councilmember Pierson and Councilmember Uhring

Prepared by: Adrian Fernandez, Assistant Planning Director

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, Interim City Manager

Date prepared: April 11, 2022 Meeting date: April 14, 2022

Subject: Zoning Text Amendment No. 21-005 Amending Malibu Municipal Code Chapter 17.68 (Temporary Use Permits)

RECOMMENDED ACTION: Discuss potential amendments to the temporary use permit (TUP) process, event criteria, and provide feedback for staff to incorporate into a draft ordinance amendment.

DISCUSSION: At its December 13, 2021 meeting, the City Council directed staff to define what is considered a temporary event, particularly for a series of events. and bring back a draft ordinance for Council consideration. The primary objective of this potential amendment is to address the following items:

Amend Malibu Municipal Code (MMC) Section 17.68.060(F) to:

- Clarify event timelines, and
- Address modifications to the permitting process for community-sponsored art-related events in public spaces.

Definition of a Temporary Event

MMC Section 17.68.060(F) states how long an event can last; however, while the code states that an event can last up to 14 consecutive days, it does not provide clear guidance on whether or not the event must operate for consecutive days.

Staff has received numerous requests for event permits where the applicant proposes non-consecutive events within 14 consecutive days under one application. Staff has also received requests for multiple-day events that span over 14 non-consecutive days. Staff

has also received requests for temporary uses/structures that are not events that often take more than 14 days, such as a sales office, construction staging, construction parking, and temporary wireless facilities while redeveloping a property. Staff recommends that the code be amended to state that an event must take place on consecutive days in order to be considered as one event and to provide a two-year limit for non-event temporary uses/structures with an option for extensions.

Community-Sponsored Art Events

MMC Section 17.68.040(G) states that art, cultural, and educational exhibits and displays require a TUP. However, the majority of art and cultural events take place within public areas that are designed for such uses and have fewer than 100 persons in attendance with minimal to no public impacts. In addition, over the past year, staff has presented to the Council fee waiver requests from the groups that sponsor these types of events. The basis for these requests is that the groups that sponsor these events are small non-profits and the cost of the TUP application and public notice materials often cost more than the events themselves.

Public art, cultural or educational events that take place within public venues are a community benefit. To address the needs of these types of events, staff recommends an amendment that allows for the issuance of an over-the-counter permit for public art, cultural, and educational events when operated by a non-profit organization. The purpose of the permit would be to allow staff the opportunity to check for the following:

- Does the event take place within a public space that is large enough to accommodate the event?
- Does the event take place within the regular hours of operation?
- Does the event have adequate parking?
- Is a review by the Los Angeles County Fire Department, Los Angeles County Sheriff's Department or Los Angeles County Health Department required?
- Does the event provide adequate access?
- Will the event overburden the site?
- Is the event being held by a non-profit group?
- Will the event cause a public nuisance?

Since community-sponsored art events may vary in size, the Subcommittee may want to consider thresholds that could trigger a TUP, such as the estimated number of attendees.

Implementation

The implementation of the topics discussed in this report would require modification to MMC Section 17.68.040. Staff will prepare the amendment based on the input received from the Subcommittee and present it to the Planning Commission for recommendation to the City Council. If adopted by the City Council, the amendment would become effective at its second reading.

STAFF FOLLOW-UP: Following comments from the Subcommittee, staff will develop a draft ordinance to MMC Chapter 17.68 (Temporary Use Permit) for recommendation by the Planning Commission and consideration and adoption by the City Council.

ATTACHMENTS: None.