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Updating LCP Implementation Plan (IP) Procedures

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Introduction

This document contains guidance for local governments that may be considering an update of the Implementation Plan (IP) component of their Local Coastal Program (LCP). The California Coastal Act of 1976

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requires that local governments prepare and implement LCPs to carry out the Act's policies to protect coastal resources and maximize public access to the shoreline. An LCP consists of a Land Use Plan (LUP), which details the kinds, locations and intensity of land uses, and resource protection and development policies in the coastal zone, and an Implementation Plan, which includes land use zoning and other implementing ordinances that conform with and carry out the Land Use Plan. Effective zoning ordinances and procedures (the IP) ensure that the objectives of the Land Use Plan are achieved.

Purpose of this Guide

Since the first IPs were written in the 1980s, the Coastal Commission and local governments have encountered numerous procedural issues that can undermine effective implementation of LCPs. These issues range from questions about what activities require a permit or whether a project is appealable to the Commission, to disputes over projects due to problems with public notification or disagreements about the appropriate level of review of a local permit. Questions and disputes such as these slow down the development review process and require more staff resources to resolve. Although sometimes necessary, procedural conflicts also take resources away from the core LCP objective of coastal resource protection.

Some IPs have been updated or were certified more recently, and thus they may address many of the issues in this guidance. Other IPs, though, have never been updated, and do not reflect the knowledge and experience gained over the years by the Commission and local governments through LCP implementation. It may be beneficial, therefore, to update an IP to improve the coastal resource management process. Just as an LCP needs to be updated to address policy and land use issues, so should the implementing ordinances and procedures be reviewed and revised as appropriate to address new issues and the need for clarification. This Guide is a companion volume to the Commission's [Land Use Plan Update Guide](#), and suggests ways for local government to keep ordinances and procedures current and responsive to changed circumstances and new issues.

Using this Guide-- Local and Legal Context Matters

Local Coastal Program implementing ordinances address both development standards and coastal permit procedures. This guide discusses certain priority procedural topics and provides general planning assistance for jurisdictions that have certified coastal implementation plans and are considering updates. If you do not have an IP yet or are planning to revise your entire IP, please refer to Appendix A ("Drafting a New Implementation Plan"). The following are some recently certified coastal

Frequently Used Acronyms

LCP: *Local Coastal Program*

LUP: *Land Use Plan*

IP: *Implementation Plan
(zoning ordinances, zoning
district maps, and other
implementing actions)*

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implementation plans that you can review to obtain ideas about format and content:

- Malibu (certified in 2002): available at <http://www.qcode.us/codes/malibu-coastal/> (click on “Local Implementation Plan” and also “Coastal maps from the City of Malibu Local Coastal Program”)
- Carmel-by-the-Sea (certified in 2004): staff report is on line at <http://www.coastal.ca.gov/sc/F5c-2-2004.pdf> as is the zoning ordinance (Title 17) at <http://www.codepublishing.com/CA/carmel.html>. Other components of the Implementation Plan include Shoreline Management Plan, Significant Tree Evaluation, Design Guidelines, Archaeological Reports, Storm Water Standards, and Historic Building Rehabilitation Standards.
- Point Arena (certified in 2006): available at <http://documents.coastal.ca.gov/epacket/2006/4/F5a-4-2006-a1.pdf> and final zoning ordinance #179 is at <http://www.cityofpointarena.com/> under “Municipal Code.”
- Redondo Beach (certified April 2003): Ch 5 of the Municipal Code is at <http://www.qcode.us/codes/redondobeach/>.

This guide also complements and expands upon the *Local Coastal Program (LCP) Post-Certification Guide for Coastal Cities and Counties* available at <http://www.coastal.ca.gov/la/docs/post-cert-lcp-guide.pdf>. The *Post-Certification Guide* was last updated in 2002 and explains basic procedures for issuing coastal permits and carrying out other aspects of certified LCPs. This guide notes a few rules which have changed since 2002. It also suggests ways to write implementing ordinances for some of the procedures generally outlined in the *Post-Certification Guide*.

IMPORTANT NOTE: The information presented here is guidance only, and should be considered in conjunction with the legal requirements of the California Coastal Act, the California Code of Regulations, and the applicable certified Land Use Plan. Any actual proposed changes to an Implementation Plan should be reviewed directly with the relevant District Office contacts of the Commission. Such changes constitute LCP amendments that must be approved by the Commission.

Having noted this, some of this guidance is simply a restatement or elaboration of existing legal requirements that should be addressed in an IP. Other guidance is derived from past Commission decisions concerning IP amendments or procedural disputes. While such decisions should not be relied upon as rules or regulations, they are examples of how certain issues have been addressed by the Commission and local governments in other

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cases. If you have any specific questions about the content of an individual IP update and the applicability of any of these suggestions in this Guide, they may be directed to the appropriate Commission District office staff. Together, we can discuss how the ideas presented in this Guide can be adapted to specific language for your IP. For contact information, please go to: <http://www.coastal.ca.gov/address.html>.

Contents of this Guide

This guide's topics are grouped into three categories:

- Section I. Local Coastal Permit Requirements
- Section II. Local Coastal Permitting Procedures
- Section III. Local Responsibilities in the Appeal Process

These categories correspond to the steps local government would generally perform to implement the coastal permit regulatory process. Table 1 below lists more detailed steps in each category that are discussed in this guidance. Column 1 of the table identifies the procedural step. Column 2 lists the minimum required content that your IP should address. Column 3 lists additional refinements and enhancements that you may want to consider to improve implementation of your IP. Whether or not they are needed will depend on the specific circumstances of your LCP and the certified LUP.

In reviewing your IP for possible updates, ask whether each listed step in column 1 of the Table is covered, and if the recommended minimum content is included (column 2). You can then review the additional suggestions for IP improvements (column 3), and ask which of the further refinements and enhancements might be applicable and desirable for your jurisdiction.

Many of the possible additional IP refinements and enhancements discussed in this guide use examples, such as other certified LCPs, that can be adapted to your local circumstances. The examples are compiled in [Appendix B](#). These examples illustrate the concepts discussed in this guide, but their exact wording may not be appropriate to the circumstances of your jurisdiction. The Coastal Act and California Code of Regulations provide local governments some flexibility to both include additional coastal permit procedures beyond the minimum requirements and adapt the specific content to local circumstances. Since each IP is tailored to the corresponding local coastal LUP and written in the context of your Municipal or County code, there is no single text that fits all jurisdictions.

Finally, not all local permit procedures are contained in the zoning ordinances. Your city or county may have other written and/or informal procedures for planning staff to follow that complement and expand upon the basic steps established in your zoning ordinance. Because ordinances

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vary in their level of procedural detail, this guide does not always specify if suggested enhancements and refinements should be in an ordinance or in an informal administrative document. This may depend in part on whether specific provisions in a certified LUP require implementation through ordinance.

Table 1: Components of LCP (Local Coastal Program) Update Guide: Implementation Plan (IP) Procedures

Procedural Step	When updating the IP ensure that it includes at a minimum:	Further refinements & enhancements to consider including when updating the IP:
<u>I. Identify Coastal Permit Requirements (Section I)</u>		
<u>A. Determine if a Proposed Project Is Within Local Permitting Jurisdiction</u>	<u>Statement of responsibility to issue coastal permits</u>	<u>a. Process for determining if project is within coastal zone where permit authority has been delegated</u> <u>b. Option to have Coastal Commission act on a coastal permit when project straddles jurisdictional boundary</u> <u>c. Explanation of how to process a coastal permit when Coastal Commission also has jurisdiction</u> <u>d. Process for addressing subsequent projects on site where the Coastal Commission has previously issued a permit</u> <u>e. Address situations where local coastal permit authority is preempted</u>
<u>B. Determine if a proposal is “development”</u>	<u>Definition of development</u>	<u>a. Illustrations of established determinations of what activities are development</u> <u>b. Process for determining if a project is development</u> <u>c. Affirmation that definition of development applies to other governmental agencies</u>
<u>C. Determine if a development</u>	<u>List of exemptions</u>	<u>a. Definitions of statutory exemptions.</u> <u>b. Explanation of temporary</u>

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Table 1: Components of LCP (Local Coastal Program) Update Guide: Implementation Plan (IP) Procedures		
Procedural Step	When updating the IP ensure that it includes at a minimum:	Further refinements & enhancements to consider including when updating the IP:
<u>proposal is exempt from permit requirements</u>		<u>events exemption</u> <u>c. Definition of disaster replacement exemption</u> <u>d. Description of emergency work exemption</u> <u>e. List of excluded categories of development</u> <u>f. Description of limited nuisance abatement</u>
<u>D. Determine if proposed project is appealable to Coastal Commission</u>	<u>Categories of developments that can be appealed.</u> <u>Identification of the principal permitted use in each zoning district within counties.</u>	<u>a. Process for determining if project is within locality's geographic appeal jurisdiction</u> <u>b. Definitions of major public works and energy facilities</u> <u>c. Discussion of when a permit amendment or extension is appealable.</u> <u>d. Procedure for revising appeal determinations</u>
<u>E. Resolve disputes over whether permits are required or appealable</u>	<u>Dispute resolution procedure</u>	<u>a. Procedure to ensure that any dispute resolution can commence as soon as practical</u> <u>b. Procedure to facilitate information exchange</u> <u>c. Procedure to accept a permit determination change as a result of dispute resolution</u>
<u>II. Specify Permitting Procedures (Section II)</u>		
<u>A. Specify application Contents</u>	<u>Requirement to fill out an application for a coastal permit</u>	<u>a. Categories of information in an application</u> <u>b. Different applications for different types of permit review</u> <u>c. Method to ensure applicant has legal authority to carry out approved project</u>

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Table 1: Components of LCP (Local Coastal Program) Update Guide: Implementation Plan (IP) Procedures		
Procedural Step	When updating the IP ensure that it includes at a minimum:	Further refinements & enhancements to consider including when updating the IP:
<u>B. Specify noticing to Perform</u>	<u>Noticing requirement</u>	<u>a. Standard notice forms</u> <u>b. Procedure for additional noticing</u> <u>c. Procedure for advanced noticing</u>
<u>C. Decide on a coastal permit application</u>	<u>Indication of which bodies act on coastal permits and their procedures</u>	<u>a. Expanded use of the consent calendar</u> <u>b. Procedure for administrative officer to hear and act on coastal permits</u> <u>c. Process for some coastal permits not needing public hearings</u> <u>d. Process for consolidating permit</u> <u>e. Process for emergency permits</u> <u>f. Procedure for permit amendments</u> <u>g. Procedure for permit extensions</u>
<u>D. Address potential conflicting code provisions</u>	<u>Variance, non-conforming, and similar provisions that affect coastal permits</u>	<u>a. Coordination of any variances with coastal resource protection</u> <u>b. Coordination of any non-conforming provisions with coastal resource protection</u> <u>c. Coordination of other local reviews with coastal permits</u> <u>d. Explanation of using mapped information</u> <u>e. Assurance of internal consistency</u>
<u>E. Address some other state laws</u>	<u>No public hearing for second unit coastal permits</u>	<u>a. Assurance that coastal permit process is preserved when addressing other state laws</u>

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Table 1: Components of LCP (Local Coastal Program) Update Guide: Implementation Plan (IP) Procedures		
Procedural Step	When updating the IP ensure that it includes at a minimum:	Further refinements & enhancements to consider including when updating the IP:
<u>F. Memorialize action taken on a coastal permit</u>	<u>Basic contents of a final local action notice and requirement to mail final local action notice</u>	<u>a. Guidance for preparing findings and conditions</u> <u>b. Guidance for addressing Coastal Act public access and recreation policies and legal documents</u> <u>c. Elaboration of required contents of Final Local Action Notice (FLAN)</u> <u>d. Procedure for transmitting FLANs</u> <u>e. Procedure for responding to notices of deficient FLANs</u>
<u>III. Coordinate with the Coastal Commission on Appeals (Section III)</u>		
<u>A. State any fees to appeal coastal permit decisions</u>	<u>Statement of whether a fee for appeals is charged</u>	<u>a. Fee schedules that accurately reflect any appeal fee</u> <u>b. Explanation of the effect of charging an appeal fee</u>
<u>B. Transmit complete files for appealed projects</u>	<u>Requirement to transmit file to Coastal Commission</u>	<u>a. Designation of staff to respond to Notifications of Appeal</u> <u>b. Procedure to assemble materials to transmit</u>
<u>C. Complete local process to coordinate with the Coastal Commission action</u>	<u>Acceptance of final Coastal Commission action on an appeal</u>	<u>a. Procedure to hold an additional hearing on permits appealed by Coastal Commissioners</u> <u>b. Procedure to address project changes after an appeal is filed</u> <u>c. Procedure to reconcile local responsibilities for the project with Coastal Commission action on appeal</u>