

CALIFORNIA COASTAL COMMISSION

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LCP Update Guide

Section 6. Planning and Locating New Development and Archaeological/Cultural Resources

Review the principal Coastal Act policies concerning Development at Sections 30244, 30250, 30252, 30253. These statutes can be found at:
<http://www.coastal.ca.gov/coa/stact.pdf>

After a decade or more of development authorized under a certified LCP, it is likely your LCP needs comprehensive revision. Most importantly, the background data and provisions of your LCP that affect new development and growth should reflect current land use and public facilities constraints and growth projections. In recent years there has been increased emphasis on planning that reflects smart growth principals and new legislation for Sustainable Communities has been enacted. An update should reexamine and revise the designation of the kinds, location and intensity of land uses to: 1) ensure consistency with all Coastal Act policies; 2) reflect current limits to the available capacity of public works facilities (e.g. water, wastewater and roads); 3) reflect protection of priority uses under the Coastal Act; and, 4) ensure Highway One remains a 2 lane scenic road in rural areas. The Coastal Act also requires mitigation for any adverse impacts on archaeological/cultural or paleontological resources.

What should updated Planning and Locating New Development and Archaeological Resources components include?

- Projected population, commercial, industrial and other growth;
- Current infrastructure capacity;
- Projected infrastructure capacity based on only those service improvements that are consistent with Coastal Act and LCP policies;
- Land use map designations and intensities for residential, commercial and industrial development in or adjacent to existing developed areas;
- Maximum density (e.g., homes per acre) for each residential land use designation in the coastal zone;
- Maximum intensity for each non-residential land use designation in the coastal zone, including roads and their rights of way and other public lands (e.g., maximum land coverage, floor area ratios, maximum number of rooms, maximum number of employees, minimum level of service);
- Land use designations and intensities commensurate with the level of available infrastructure (e.g. sewer, water and road or transit systems, with



Highway One limited to two lanes in rural areas);

- ❑ Designations in sufficient locations on the land use map for Coastal Act priority uses;
- ❑ Policies, incentives and zoning measures to ensure that Coastal Act priority land uses have priority allocations of any limited public services and are actually constructed;
- ❑ Minimum parcel sizes and other policies and zoning measures for any land divisions so as to concentrate development and to protect rural and agricultural areas;
- ❑ Policies and zoning standards for any allowed residential, visitor-serving, industrial or other structural developments outside of urban areas to ensure that they conform to and enhance their rural setting;
- ❑ Dedication or in-lieu fee requirements for recreation and open space to accompany new development and to mitigate the cumulative impacts of development;
- ❑ Inventory of archaeological, paleontological and other cultural resources;
- ❑ Policies and zoning measures to protect both known and discovered archaeological and paleontological sites and any recovered artifacts;
- ❑ Policies and standards to reflect statutory requirements for Native American consultation.

Additional guidance on some of these topics is discussed later in this section.

Where can I read some examples of updated planning and locating new development and cultural resources policies?

For an example of some updated LCP provisions for new development see:

- ❑ **City of Malibu Land Use Plan**, at: <http://qcode.us/codes/malibu-coastal/>

Some examples of certified LUP archaeological provisions are:

- ❑ **Carmel-by-the-Sea General Plan/ Coastal Land Use Plan**, Cultural Resources and Historic Preservation element, at: http://ci.carmel.ca.us/tasks/sites/carmel/assets/File/general_plan/Land_Use.pdf
- ❑ **City of Huntington Beach LCP Amendment No. 1-06 (Shea Homes/Parkside)**, at: <http://documents.coastal.ca.gov/reports/2007/5/Th14a-5-2007.pdf>

- **City of Fort Bragg LCP Amendment No. FTB-MAJ-1-06 (LCP Update)**, especially page 36, at:
<http://documents.coastal.ca.gov/reports/2007/12/F6a-12-2007.pdf>

What are some issues to address in an LCP update of planning and locating new development and cultural resources policies?

◆ **Concentration of Development**

Since LCPs were certified there has been new emphasis on furthering Smart Growth principles in planning and development. And, new requirements addressing impacts from land use and transportation were adopted in the Sustainable Communities and Climate Protection Act of 2008.

Coastal Act policies already reflect many Smart Growth principles by requiring, for example: that new development be concentrated in areas able to serve it (PRC 30250), that public works facilities shall be designed and limited to accommodate needs generated by development (30254), that urban-rural limit lines be established (PRC 30241) and that new development minimize energy consumption and vehicle miles travelled (PRC 30253d). However, other Coastal Act policies must also be addressed in new development and land use plans to further smart growth. For example, the conversion of visitor serving land uses to a higher density mixed use residential/visitor serving use maybe appropriate in limited circumstances where it can be demonstrated that priority visitor serving uses are adequately provided for within the local jurisdiction factoring in future demand for these uses.

An LUP update can reinforce measures to concentrate residential, commercial and related development. Urban designations on LCP land use maps can be reviewed for appropriateness and complemented with policies promoting techniques for maintaining urban limit lines, such as no access strips for urban services into adjacent rural areas (see “Urban-Rural Limit Lines” in Section 5 Agricultural Resources). Smart Growth tools to promote and incentivize sustainable urban development can be added to or strengthened in LCPs, provided that Coastal Act priority uses are accommodated (see Section 2: Recreation and Visitor Serving Facilities) and that public access and sensitive habitat, scenic, archaeological and other coastal resources remain protected (see “Density Bonuses and Other Incentives” below). And, within urban boundaries, planned development levels should not exceed available public services.

Examples of LCP amendment approvals that reflect concentrated urban smart growth that also ensure accommodation of priority uses and coastal resource protection include:

- ❑ **City of San Buenaventura Local Coastal Program Amendment No. SBVMAJ- 2-08 [Downtown Specific Plan]**, at: <http://documents.coastal.ca.gov/reports/2009/11/Th11b-11-2009.pdf>
- ❑ **City of Huntington Beach LCP Amendment 1-10 (Downtown Specific Plan Update)**, at: <http://documents.coastal.ca.gov/reports/2011/6/W9b-6-2011.pdf>

If services are limited, it may be necessary to scale back development potential. If expansion of services is anticipated, the LUP should specify how authorizations for new development will be consistent with the timing and amount of available services. For example, the Commission addressed this issue in suggesting modifications to these LCP amendments:

- ❑ **County of San Mateo LCP Amendment No. SMC-MAJ-1-07 (Midcoast LCP Update)**, at: <http://documents.coastal.ca.gov/reports/2009/12/Th18a-12-2009.pdf>
- ❑ **San Luis Obispo County Local Coastal Program Major Amendment No. 2-04 (Part 2) Estero Area Plan**, at: <http://documents.coastal.ca.gov/reports/2008/7/Th16a-7-2008.pdf>

◆ **Second Units**

Since 2002 there have been new requirements in place concerning development of second units on single family residential lots. While California Government Code revisions changed procedures for coastal development permits for second units (see LCP Update Guide Part II, Section II.E.1), they did not change development standards that apply in the coastal zone or the requirements of the Coastal Commission's appeal authorities. Many local governments have adopted ordinances through LCP amendments to address second units. Some examples include:

- ❑ **Humboldt County LCP Amendment No. HUM-MAJ-2-06 (Housing Element Resubmittal)**, at: <http://documents.coastal.ca.gov/reports/2006/11/W7b-11-2006.pdf>
(see especially pp. 100- 109 of Exhibit B (original staff report for HUM-MAJ-1-99-B)
- ❑ **City of Fort Bragg LCP Amendment No. FTB-MAJ-1-06 (LCP Update)**, at: <http://documents.coastal.ca.gov/reports/2008/1/F7b-1-2008.pdf>
- ❑ **City of Pismo Beach LCP Amendment No. 1-04 Part 1 (Second Units – AB 1866)**, at: <http://www.coastal.ca.gov/sc/W13a-5-2004.pdf>
- ❑ **City of Redondo Beach LCP Amendment No. 1- 2003**, at: <http://www.coastal.ca.gov/lb/W8b-2-2004.pdf>

Other jurisdictions that have example ordinances include the counties of Santa Cruz, Santa Barbara and Ventura and the cities of San Diego, Santa Cruz, Carlsbad, Carpinteria and Port Hueneme.

◆ **Density Bonuses and Other Incentives**

State law allows for density bonuses for some affordable housing projects. Your updated LCP could incorporate such provisions, but be careful not to supersede the protective policies of the Coastal Act. For example, if part of a site is ESHA, the density bonus may not be used as an override to build in the restricted area. Rather, bonus density can be assigned to the non-ESHA developable portion of a site. See, for example:

- **Humboldt County LCP Amendment No. HUM-MAJ-2-06 (Housing Element Resubmittal)**, at:
<http://documents.coastal.ca.gov/reports/2006/11/W7b-11-2006.pdf>

This same advice to factor in Coastal Act protections holds true when updating your LCP with other housing incentives that have been added to state law. Your goal should be to harmonize the state statutory requirements.

◆ **Rural Land Divisions and Development**

The Coastal Act along with other laws and best planning practice guidance support the concentration of development. Outside of urban areas, some tracks of land will not be faced with proposed development of structures because of resource or landform constraints, land preservation status, or direct use of the land for agriculture, mining or timber harvests. Nevertheless, most LCPs designate such lands for some amount of structural development on portions of non-urban areas. Updating the LCP offers an opportunity to review policies that govern permissible rural development to ensure that they are adequate and consistent with the Coastal Act.

One issue that the Commission has faced is ensuring that intensities of use be consistent with the character of the area, such as limits on special events at recreational and overnight facilities. For an example of LCP policies and how the Commission applied them see the appeal decision on a 7-unit inn project in Mendocino County:

- **Appeal No. A-1-MEN-07-028 (Jackson-Grube Family, Inc.)**, at:
<http://documents.coastal.ca.gov/reports/2010/8/W8a-8-2010.pdf>

Another issue before the Commission has involved combining or retiring lots to address potential cumulative impacts of building out remote small lot subdivisions. An example of a lot retirement program is:

- **City of Malibu Land Use Plan**, Chapter 5—New Development, C. 7 Lot Retirement Program, at: <http://qcode.us/codes/malibu-coastal/>

An example of a companion transfer of development credit program is:

- **City of Malibu Local Implementation Plan**, Chapter 7—Transfer Of Development Credits, at: <http://qcode.us/codes/malibu-coastal/>

◆ **Cultural Resources Consultation**

Measures were adopted in 2004 (Senate Bill 18) that amended sections of the Civil Code and Government Code to enact new intergovernmental consultation requirements with Native American tribes. The new provisions require cities and counties to contact, and consult with, California Native American tribes prior to amending or adopting a general plan or specific plan, or designating land as open space. In updating your LCP to be consistent with SB 18 you can consult:

- **Tribal Consultation Guidelines** (2005) by Office of Planning and Research, at: http://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

In addition, The California Natural Resources Agency in November 2012 adopted a Final Tribal Consultation Policy that further supports and emphasizes the need for tribal consultation:

- **California Natural Resources Agency Tribal Consultation Policy**, at: http://www.resources.ca.gov/docs/Final_Tribal_Policy.pdf

◆ **Discovery and Preservation of Cultural Resources**

Discovery of cultural resources can occur as part of a mandated pre-development reconnaissance or during excavation for an approved development. Your LCP should include policies that address both situations.

Pre-development reconnaissance can be required for known or likely sites, whether they are mapped or not. If your LCP ties such a requirement to listed or mapped sites (as opposed to just general cultural resource sensitivity zones), you should amend it consistent with more recent standards for maintaining site location confidentiality.

Qualified onsite monitors or workers can discover cultural artifacts during construction. Your LCP can provide criteria for when onsite monitors are required as a condition of development.

Regardless of the manner in which artifacts are discovered, the LUP should include policies to require that work is halted if artifacts are discovered until an evaluation occurs and mitigation actions implemented.

There are various methods to protect and preserve cultural resources and the appropriate method to be used in a given situation may depend on the nature of the resource (for example, if there are human remains). These measures may include, for example, leaving the materials in place undisturbed (e.g., by

prohibiting or resiting the development or establishing adequate buffers; by capping the site or recovering and removing artifacts to a secure archive). Your LCP could detail the criteria that an approved archaeological consultant would use to make such decisions.

It can often be a challenge to find a suitable repository for permanent archives of cultural artifacts. In many cases local governments can work with local institutions to establish a storage program and include requirements in the LUP for carrying out the program. If no specific program is established with a repository institution, the LUP should include provisions to assure resources are protected in each permitting action.