



CHAPTER 3 -- THE LAND USE PLAN: RESOURCES AND DEVELOPMENT ISSUES AND POLICIES

3.6 SHORELINE ACCESS AND TRAIL/BIKEWAY SYSTEM

[Policies](#)

Coastal Act Requirements

The public's right of access to the shoreline is guaranteed by the California Constitution. The Coastal Act further defines shoreline access policies:

Section 30005.5. Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519. (Added by Ch. 744, Stats. 1979.)

Section 30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the regional commission, the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30212.

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is



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inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

- (c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30214.

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
 - (1) Topographic and geologic site characteristics.
 - (2) The capacity of the site to sustain use and at what level of intensity.
 - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
 - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
- (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
- (c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs. (Amended by Ch. 919, Stats. 1979.)



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Section 30500. (a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any such local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof, for the local government. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

Section 30604 (c). Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

To implement the latter policy, the Coastal Commission has required permit applicants to record an offer to dedicate an access easement, usually valid for 21 years, on about 60 parcels in Mendocino County. Where the Commission has not required access, the reason has been the unsuitability of the access point rather than the burden that would have been imposed on the development.

The public cannot make use of new access rights until the offer is accepted by a public agency unless the landowner consents to public use. The accepting agency must assume responsibility for improvement, maintenance, and liability of the accessway before its opening. None of the access offers in Mendocino County have been accepted by a public agency.

In some instances, the North Coast Regional Commission has required offers of dedication in order to avoid limiting the options available for the LCP. The State Commission's supplemental guidelines on LCP access requirements (July 25, 1979) require that, if prior offers of dedication are not incorporated in the proposed LCP, specific findings must be made as to why the accessways were considered inappropriate.

California Constitution

Article X, Section 4: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people.

The State Coastal Conservancy is the state agency authorized to acquire property needed for accessways and is authorized to... ..provide up to the total cost of the acquisition of interests in lands... (Reference Division 21, Public Resources Code, Chapter 9, Section 31400.2).

Subdivision Map Act



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Sections 66478.1 to 66478.14 (summarized):

- No local agency shall approve coastal or oceanfront subdivisions, or subdivisions along navigable streams, public waterways, public lakes or public reservoirs, unless public access is provided by fee or easement from a public highway "to that portion of the bank or stream bordering or lying within the proposed subdivision, " or to "land below the ordinary highwater mark on any ocean coastline or bay shoreline within or at a reasonable distance from the subdivision."
- Additionally, no local agency shall approve a subdivision that does not provide for dedication of a public easement, designed in extent, width, and character to achieve public use of the waterway, along a portion of the waterfront bordering or within the proposed subdivision.
- Reasonable access is to be determined by the local agency, considering: (1) mode of access; (2) size of subdivision; (3) common uses of bank or stream, or type and appropriate uses of coastline or shoreline; (4) likelihood of trespass and means of avoiding trespass. The subdivision need not be disapproved if access is not provided and the local agency finds that reasonable access is available nearby.
- The subdivider is not required to improve access route(s) that benefit non-residents of the subdivision. Access route(s) may be conveyed or transferred to other agencies.

Prior to 1974, the Subdivision Map Act did not specify that access had to be provided to the coastline or shoreline, but simply referred to access to public waterways, rivers, or streams.

Access Component. The Access Component of the LCP, required by Section 30500(a) of the Act and Section 13512 of the Commission's Administrative Regulations, consists of Table 3.6-1, listing access points, the policies in this chapter, the policies specific to each access point listed by planning area in Chapter 4, and the accessways shown on the Land Use Maps. (see Appendix 13 for Table 3.6-1)

Vertical Access. The location of vertical accessways shall reflect the rights of the public to reach the shoreline in specific areas and the need to protect specific coastal resources. The vertical accessway should usually be sited along the borders of a project site and should extend from the first public road to the shoreline (or bluff edge, if access is required to reach a bluff top viewing area.)

Blufftop Access. Where no beach area exists and a project is proposed along a shorefront bluff top lot, public access for public viewing of the shoreline may be required. Such accessways should run along the edge of the bluff and be of a width adequate to provide safe public access along the bluff edge of the property, as defined in Section 30604(c) of the Coastal Act.



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Lateral Access. Lateral access dedications provide for public access and use along the shoreline. A minimum of 25-foot wide accessway along the dry sandy beach for passive recreational use has been established as the necessary width to allow reasonable use by the public of the state-owned tidelands.

Passive recreational uses. Passive recreational uses include those activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, horseback riding and surfing.

Pass and repass. Where topographic constraints of the site make use of the beach dangerous, where habitat values of the shoreline would be adversely impacted by public use of the shoreline, or where the accessway may encroach closer than 20 feet to a residential structure, the accessway may be limited to the right of the public to pass and repass along the access area. Pass and repass is defined as the right to walk and run along the shoreline.

Access Issues

The 130 miles of coastline is formed by mountainsides, high and low bluffs, pocket beaches, long sandy beaches, stream outlets, and river estuaries. This varied environment makes access need more dependent on the suitability of the access points than on the distribution of population or the total capacity of access points. Conditions are much different than in some sections of Southern California, where a relatively uniform coastline and a relatively uniform demand from a fully developed coastal zone make access points at intervals of 500-feet logical. Yet there are significant mismatches between available public access and need on the Mendocino Coast. As an example, although the town of Gualala is a major visitor-serving center on the Mendocino Coast and serves a resident population of over 2,500 persons, the closest non-fee public access to the coast is more than nine miles north of Gualala at Schooner Gulch State Beach.

Access to the shoreline is a key mandate of the Coastal Act. The term "maximum access" as used by the Act is intended to make the shoreline--a public resource--readily available to the public and to prevent it from becoming the private enclave of those fortunate or wealthy enough to own property on or near the shore. Access is also the issue that involves the most difficult balancing of public and private gains and losses and has been the subject of the sharpest debates.

The Access Component required in every LCP must contain policies concerning provision, maintenance, and management of public shoreline access and must designate existing and proposed accessways for public use. Access must be provided for viewing, active recreation and scientific research at the water's edge of the ocean and tidal rivers. The coast should be available to users of all transportation modes including drivers, bus riders, bicyclists, hikers, equestrians, and the handicapped. The Coastal Act's requirement for "maximum public access implies that all coastal environments capable of tolerating use at a reasonable risk to both humans and habitat be open.



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Some points along the shoreline are not suited for recreational use because of potential hazards or the sensitivity of the habitat. For example, many cliffs and bluffs are steep, and unstable. Slides, rockfalls and slippages occur frequently. Habitats such as tidal pools, river wetlands and riparian areas, are vulnerable to disruption by access. Access must not adversely affect agriculture.

Perhaps the most controversial issue is provision of public access across private property. Access to any parcel of land or body of water is dependent on the right and ability to cross adjoining land. Until the last few decades, there were so few places on the Mendocino coast where access was restricted that no problem was recognized. This situation has changed as development increasingly limits both visual and physical access to ocean frontage for residents and visitors.

Prescriptive rights of access established by a court determination of historic public use of the property have been proven at some locations and probably exist at many others. In California, the court must find that the public has used the land for five years as if it were public land:

- without asking or receiving permission from the owner,
- with the actual or presumed knowledge of the owner,
- without significant objection or bona fide attempts by the fee owner to prevent or halt such use.

The rule that an owner may lose rights in real property if it is used without consent for the prescriptive, 5-year period derives from common law and has been supported in recent case law (*Gion vs. City of Santa Cruz*, 1970, 2 Cal. 3d29.). It should be noted that if a property owner wishes to terminate public use of his or her land, those claiming a right to use it must initiate legal action to re-acquire access.

Property owners are protected by the California Civil Code, Sections 813, 1008, and 1009, which define the steps needed to prevent a prescriptive easement from being established, including posting signs along the property line or publishing a notice in the newspaper that right to pass is subject to permission and control of the owner. Despite this legal protection, some owners who once were willing to allow informal access to friends or to an occasional visitor have now become concerned about prescriptive rights and are no longer permitting access through their property. Thus, several informal access points along the Mendocino coast have been closed in recent years.

Dedication Offers, pursuant to Section 30212 of the Coastal Act, provide access to the shoreline as a condition of new development projects with specified exceptions. Although none of the accessways offered as a condition of permit approval in Mendocino has been opened to public use, many of the offers recorded are essential elements of the access component of the LCP. However, LCP studies show that some access offers required by the Coastal Commission are unnecessary or illogical in the context of the Land Use Plan proposals for adjoining properties. Some of these offers can be relinquished shortly after certification while others should be abandoned when access points prescribed by the plan are assured. Where existing offers of



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dedication are not essential to meet public access needs, the Access Component specifies that they be relinquished, listing the findings required by the Coastal Commission.

Trail/Bikeway System

The 1975 Coastal Plan called for a coastal trail system, and the hiking and equestrian trails element of the California Recreational Trails Plan proposes a trail in the Pacific Coast corridor defined as extending from Oregon to Mexico "within the sight and sounds of the Pacific Ocean." No more specific location is proposed and DPR has not funded any trail improvements in Mendocino County outside State Parks. Highway 1 is designated a Bikecentennial Route, but at the current level of funding it will be 10 years or longer before Caltrans can complete bike lanes even on the 25 percent of the route where the required widening probably would not be detrimental to the environment.

Hikers, bicyclists, and equestrians have different needs. Hikers can use all trails without limitations. Equestrians can share off-road trails with hikers but require more separation from vehicle traffic for safety. Equestrian use of public roads may be undesirable in heavily populated areas, but few such areas exist on the Mendocino coast. Most hikers and equestrians are primarily interested in experiencing the destination. On the other hand, bicyclists, with the exception of those riding balloon-tire bicycles, require pavement. Many bicyclists are not casual sightseers, but travelers who prefer to use the most direct route, which in most cases is an existing road or highway. Their main concern is safety, ensured by having enough space for a bicycle lane along the road to provide a separation between themselves and automobiles.

Mendocino County has adopted an equestrian and hiking plan as an amendment to the Recreation Element of its General Plan (#147 Mendocino County). The trail plan resulted largely from the efforts of the Northern California Trails Council, a group concerned with availability of open space for riding and hiking and safety provisions along public roadways. The trails plan portrays a countywide system of trails connecting communities with each other as well as with recreational areas. However, funds have not yet been available to implement the plan's policies. Existing county trails presently are not heavily used, due to a lack of publicity and public knowledge as well as to a lack of facilities such as staging areas, campgrounds, and safe access points.

A continuous coastal trail through Mendocino County using little or no Highway 1 right of way would be costly and at some locations disruptive to existing development. Equally important, there is no reason to believe it would receive enough use as a continuous trail to justify the cost against alternative uses of the same funds for coastal preservation and enhancement.

During a typical summer day, 50 or more touring bicyclists use any segment of Highway 1. Provision of standard 4-foot bicycle lane along the entire length of the highway would have environmental effects at some locations that must be evaluated milepost by milepost.



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The potential use of the entire length of an off-road coastal trail by hikers or equestrians is conjectural because no comparable experience exists in the western United States. The John Muir Trail in the Sierra Nevada is heavily used, but it provides the only access to a region.

The Land Use Maps show the coastal trail along Highway 1 and Usal Road. It includes all trails in the County's previously adopted trails element and adds numerous short trails to shoreline access points and several longer trails in State Parks. Table 3.6-1 lists trails designated. (see Appendix 13 for Table 3.6-1)

The trail designations are based on the following conclusions:

- Short coastal trails on the bluffs and beach (a few hundred yards to 10 miles) should be provided to offer hikers and equestrians opportunities to experience the shoreline without the sights and sounds of the highway. It is assumed that most users will be on trips of one day or less duration and that they will return to their point of origin.
- A continuous bicycle route other than a bike lane on Highway 1 would not justify the cost of improvement because it would be more difficult and would not attract usage from long distance bicyclists who constitute the majority of users in rural areas. Bicycle use of designated trails on paved roads is assumed, but diversion of funds from Highway 1 bicycle lane improvements to other routes in the coastal zone is not warranted.

Managing and Maintaining Accessways

The Commission and California Coastal Conservancy have issued preliminary standards and recommendations on coastal access, including suggestions for managing and maintaining accessways (#23, California Coastal Commission). The two agencies revised and adopted their standards after public hearings in July and August 1980. The final draft recommends that access dedications first be offered to local governments, unless a particular offer is of overriding statewide importance. Concurrent with these initial offers to local government, private non-profit organizations (such as land trusts or service groups) should also be approached about assuming responsibility for operating and maintaining accessways. Where this occurs, the local government should retain legal control of the accessway, and the local non-profit group would arrange for operation and maintenance. The draft final report recommends that additional funds be sought from the California Coastal Conservancy, state tideland oil and gas revenues, user fees, and voluntary state income tax payments. If a dedication offer is not accepted by the local government or non-profit organization, it should be offered to a state agency selected as follows:

- All dedications of lateral access easements which are adjacent to tidelands and unconnected to vertical accessways, and for which no development is planned, should be offered to the State Lands Commission.
- All dedications and access facilities within five miles of a state park should be offered to the State Department of Parks and Recreation.



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- All dedications of vertical access easements which are adjacent to a state highway right-of-way should be offered to the state Department of Transportation.
- All dedicated access easements which pass through or are close to an environmentally sensitive area should be offered to the state Department of Fish and Game, if a site analysis shows that unmanaged use of the easement will damage the natural resources.
- All dedicated access easements to existing or potential fishing areas should be offered to the Wildlife Conservation Board of the California Department of Fish and Game.
- All access easements which are within the boundaries of or close to areas under the jurisdiction of a federal agency should be offered to that agency.

Because the access program is mandated by the State, any costs of access maintenance which revert to the County shall be met by the State.

Access Selection Criteria

Access points shown on the Land Use Plan were selected by the following criteria:

Distribution to areas of current and expected resident and visitor demand. Heavily populated sections of the coast and those with spectacular views, good fishing or abalone diving, or highly varied environmental resources need enough access points to meet and distribute demand for access to prevent overuse.

Quality of site and variety of experience. The most attractive sites for each use on a given segment of the coast are proposed for public access where consistent with other criteria.

Ownership. Sites in public ownership are favored over those in private ownership. Where sufficient sites in public ownership exist, additional private land or easements over private land should not be acquired.

Concerns of nearby residents and property owners. Where alternative locations sufficient to meet the intent of the Coastal Act are available, the preferences of local residents weigh heavily in the choice of access points.

Compatibility of land uses. The potential for developing access points without undue infringement on privacy or disturbance of habitats was assessed. No right to pass and repass and no intensive use is proposed within 50 feet of any existing dwelling. A number of potential access points were eliminated from consideration because of proximity to sensitive wildlife habitats.



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Development, management, and safety. Potential availability of parking, cost of constructing safe paths or stairs, ease of surveillance to prevent misuse, and avoidance of visually intrusive parking areas are important considerations in the choice of access points.