

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



September 22, 2010

**Th13a**

**TO: COMMISSIONERS AND INTERESTED PARTIES**

**FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR**

**SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION** that the action by the City of Encinitas, certifying the City's Local Coastal Program Amendment No. 1-10 (Grading Ordinance Modifications), is adequate to effectively certify its local coastal program (for Commission review at its meeting of October 13 – 15, 2010)

**BACKGROUND**

At its August 13, 2010 meeting, the Coastal Commission certified, with suggested modifications, the City of Encinitas' Local Coastal Program Amendment #1-10, regarding the incorporation and status of three technical manuals in its Grading Ordinance, which is part of the City's certified Implementation Plan. By its action adopting Ordinance 2010-16 on September 8, 2010, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications clarified the status of the technical manuals, which address landscaping, Best Management Practices and erosion control measures, in the LCP and provided procedural direction to resolve circumstances where there might be a conflict between a manual and other elements of the certified LCP. The modifications specifically provide that should such a conflict arise, the provisions of the certified LCP would be binding and take precedence. The City already has coastal development permit authority and will continue issuing permits consistent with the local coastal program as amended.

As provided for in Section 13544 of the Commission's Code of Regulations, the Executive Director must determine if the action of the City of Encinitas is legally sufficient to finalize Commission review of the LCP amendment. The City's actions have been reviewed and determined to be adequate by the Executive Director. Section 13554 of the Commission's Code of Regulations then requires this determination be reported to the Commission for its concurrence.

**RECOMMENDATION**

Staff recommends that the Commission **CONCUR** with the Executive Director's determination as set forth in the attached letter (to be sent after Commission endorsement).

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370



October 18, 2010

Mayor Dan Dalager  
City of Encinitas  
505 South Vulcan Avenue  
Encinitas, CA 92024

RE: Certification of the City of Encinitas Local Coastal Program Amendment  
No. 1-10 (Grading Ordinance Modifications)

Dear Mayor Dalager,

The California Coastal Commission has reviewed the City's Ordinance 2010-16 together with the Commission's action of August 13, 2010 certifying City of Encinitas Local Coastal Program Amendment #1-10 pertaining to the incorporation and status of three technical manuals in the City's adopted Grading Ordinance, which is also part of the City's certified Implementation Plan. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate, and the Commission has concurred at its meeting of October 14, 2010.

By its action on September 8, 2010, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications addressed the status of the three technical manuals within the Grading Ordinance and provided guidance on resolving any conflicts between the manuals and other elements of the certified LCP. Specifically, the modifications provided that should a conflict arise between any manual and the other provisions of the certified LCP, the provisions of the certified LCP would be binding. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

In conclusion, I would like to congratulate you and all other elected or appointed officials, staff and concerned citizens for continuing to work towards full implementation of the Coastal Act. We remain available to assist the City in any way possible as it continues to develop and implement the City's local coastal program.

Sincerely,

Peter Douglas  
Executive Director

## ORDINANCE 2010-16

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA AMENDING ENCINITAS MUNICIPAL CODE CHAPTER 23.24 TO REMOVE REFERENCE TO CERTIFICATION BY CALIFORNIA COASTAL COMMISSION, ADD CALIFORNIA COASTAL COMMISSION MODIFICATIONS AND DELETION OF SECTION 23.24.70

**WHEREAS**, the City Council adopted Ordinance 2008-03 (to amend Chapter 23.24, Grading) on March 12, 2008 and the amendments were certified by the California Coastal Commission, subject to minor modifications on January 8, 2009 for the purpose of amending the Encinitas Local Coastal Program; and

**WHEREAS**, the requested minor modifications were adopted by the Encinitas City Council via Ordinance 2009-03 on February 25, 2009 and subsequently certified by the California Coastal Commission Executive Director on May 6, 2009; and

**WHEREAS**, City of Encinitas staff and Coastal Commission staff discovered that the requirement contained in Chapter 23.24 to have the Coastal Commission certify several technical manuals is not necessary and agreed that the requirement could be removed. City of Encinitas staff have also determined that Section 23.24.070 relative to adoption of an Erosion and Sediment Control Manual is not necessary due to the fact that the standards are otherwise contained within the Grading Ordinance and the BMP/Stormwater Manual; and

**WHEREAS**, the City Council approved modifications to Chapter 23.24, Grading on May 12, 2010 to remove reference to certification by the California Coastal Commission and deletion of Section 23.24070; and

**WHEREAS**, the California Coastal Commission approved modifications to Chapter 23.24, Grading with additional verbiage and deletion on August 13, 2010, LCPA 1-10; and

**WHEREAS**, the Encinitas City Council must re-adopt Chapter 23.24 modifications with the changes made by the California Coastal Commission on August 13, 2010; and

**NOW, THEREFORE**, the City Council of the City of Encinitas hereby ordains as follows:

SEP 14 2010  
California Coastal Commission  
San Diego District

**SECTION 1: CHAPTER 23.24: GRADING, EROSION AND SEDIMENT CONTROL**

Chapter 23.24 of the Encinitas Municipal Code is hereby amended to read as follows:  
(Strike-through represents text to be deleted.)

23.24.060 - Landscape Guidelines Manual. The City Council may by resolution adopt a Landscape Guidelines Manual to provide for plans, programs and standards for landscaping, fire suppression, open space easement maintenance, erosion control, planting and irrigation. Upon adoption by the City Council and ~~certification by the Coastal Commission,~~ the contents of that Manual shall be part of the requirements of this Chapter but the Manual is not incorporated into the City of Encinitas Local Coastal Program. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual; and, in the case of any conflict between the provisions of this Manual and the City of Encinitas Local Coastal Program, the provisions of the Local Coastal Program shall be binding. (Ord. 95-04)

~~23.24.070 Erosion and Sediment Control Manual. The City Council may by resolution adopt a Manual of Standards for Erosion and Sediment Control Measures to provide guidance in controlling water quality impacts of construction related erosion. Upon adoption by the City Council and certification by the Coastal Commission, the contents of that Manual shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual. (Ord. 95-04)~~

23.24.071 - BMP Manual, Part II. Upon adoption by the City Council ~~and certification by the Coastal Commission,~~ the contents of that Manual shall be part of the requirements of this Chapter but the Manual, as a whole, is not incorporated into the City of Encinitas Local Coastal Program. The City Council adopted the City of Encinitas Storm Water Best Management Practices Manual Part II in Ordinance No. 2002-14 on December 11, 2002. This manual provides design, construction, and operation requirements for minimizing storm water pollution, and its content shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of the Best Management Practices Manual Part II. Sections of the Best Management Practices Manual Part II; and, in the case of any conflict between the provisions of this Manual and the City of Encinitas Local Coastal Program, the provisions of the Local Coastal Program shall be binding. ~~Sections of the Best Management Practices Manual Part II are highlighted for the purpose of inclusion into the Local Coastal Program by this reference. (Ord. 2008-03)~~

23.24.072- Engineering Design Manual. The City Council may by resolution adopt an Engineering Design Manual, which will include standards and requirements for grading permits and grading plan preparation. Upon adoption by the City Council ~~and certification by the Coastal Commission,~~ the contents of that Manual shall be part of the requirements of this Chapter but the Manual is not incorporated into the City of Encinitas Local Coastal Program. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual; and, in the case of any conflict between the provisions of

this Manual and the City of Encinitas Local Coastal Program, the provisions of the Local Coastal Program shall be binding.

**SECTION 2: ENVIRONMENTAL FINDING:**

The City Council, in their independent judgment, finds that the adoption of the Municipal Code Amendments will be exempt from Environmental Review pursuant to General Rule 15061 (b) (3) since there would be no possibility of a significant effect on the environment because the amendments will not directly result in development; any development as a result of the amended language will be subject to CEQA review and analysis.

**SECTION 3: PUBLIC NOTICE AND EFFECTIVE DATE:**

The City Clerk is directed to prepare and have published a summary of this ordinance no less than five (5) days prior to consideration of its adoption, and again within fifteen (15) days following adoption, indicating the votes cast.

This Ordinance was introduced on August 25, 2010 and will become effective upon the second reading and adoption by the Encinitas City Council and certification by the California Coastal Commission Executive Director.

PASSED AND ADOPTED this day 8<sup>th</sup> day of September, 2010 by the following vote, to wit:

AYES: Barth, Bond, Dalager, Houlihan, Stocks.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

*Signature on file*

\_\_\_\_\_  
Dan Dalager, Mayor of the City of Encinitas, CA.

**ATTESTATION AND CERTIFICATION:**

I hereby certify that this is a true and correct copy of Ordinance 2010-16, which has been

published pursuant to law.

*Signature on file*

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Deborah Cervone, City Clerk/Director of Legislative Services

I, Deborah Cervone, City Clerk of the City of Encinitas, California do hereby certify under penalty of perjury that the above and foregoing is a true and correct copy of this document on file in my office. In witness whereof, I have set my hand and the Seal of the City of Encinitas this 9<sup>th</sup> day of Sept. 2010  
Deborah Cervone, City Clerk

*Signature on file*