

CALIFORNIA COASTAL COMMISSION

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



July 28, 2010

F18c

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS MAJOR LCP
AMENDMENT NO. 1-10 (Grading Ordinance Modifications) for Commission
Meeting of August 11-13, 2010**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on July 1, 2010. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is August 29, 2010. The subject amendment request only involves one component which relates to the status of technical manuals within the City's certified Grading Ordinance.

SUMMARY OF AMENDMENT REQUEST

The proposed amendment would revise four sections of Chapter 23.24, Grading, Erosion and Sediment Control or as it is more commonly referred to, the City's Grading Ordinance. As shown in the attached strikeout version of the proposed amendment, the City is requesting to delete references for Coastal Commission certification of three technical manuals (Landscape Guidelines Manual; BMP Manual, Part II and Engineering Design Manual) in the grading ordinance and the deletion of a reference for an Erosion and Sediment Control Manual altogether from the municipal code.

SUMMARY OF STAFF RECOMMENDATION

In response to the San Diego Regional Water Quality Control Board's order and issued municipal stormwater permit, the City has been updating its certified Grading Ordinance and related documents. As part of that effort, the City has both updated and continued work on several technical manuals that are referenced in the Grading Ordinance; the City has subsequently expressed concern about prospective delays in implementation associated with the need to periodically revise these manuals and also be subject to Coastal Commission review as LCP amendments. Therefore, the City has requested to delete the manuals from the certified LCP and the elimination of one manual altogether. While the Commission understands the concern about potential delays due to the need to process LCP amendments, the amendment request, as submitted, cannot be supported. Based on the existing certified language of the Grading Ordinance, there needs to be a

more definitive statement regarding the status of these manuals in the LCP, and procedural direction is needed to address any conflict between any provisions in the manuals and the elements of the certified LCP. With the proposed modifications, the amendment request can be supported and no coastal zone resources will be adversely impacted.

The appropriate resolutions and motions begin on Page 3. The suggested modifications begin on Page 5. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 6. The findings for approval of the plan, if modified, begin on Page 10.

ADDITIONAL INFORMATION

Further information on the City of Encinitas LCP Amendment No. 1-10 may be obtained from Deborah Lee, District Manager, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (both land use plan and implementing ordinances). The City accepted the suggested modifications and, on May 15, 1995, began issuing coastal development permits for those areas of the City within the Coastal Zone.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the City of Encinitas certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Encinitas certified LCP and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

II. MOTION II: *I move that the Commission certify the Implementation Program Amendment for the City of Encinitas certified LCP if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carryout the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Sub-section 23.24.060 – Landscape Guidelines Manual of the Grading Ordinance shall be revised to read as follows:

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, 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)

2. Sub-section 23.24.071 – BMP Manual, Part II of the Grading Ordinance shall be revised to read as follows:

23.23.071 –BMP Manual, Part II. Upon adoption by the City Council, 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. Sections of the Best Management Practices Manual Part II are highlighted for the purpose of inclusion into the Local Coastal Program by this reference. 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; 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)

3. Sub-section 23.23.072 – Engineering Design Manual of the Grading Ordinance shall be revised to read as follows:

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, 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.

PART IV. FINDINGS FOR REJECTION OF THE CITY OF ENCINITAS IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The proposed amendment would revise four sections of Chapter 23.24, Grading, Erosion and Sediment Control or as it is more commonly referred to, the City's Grading Ordinance. As shown in the attached strikeout version of the proposed amendment, the City is requesting to delete references for Coastal Commission certification of three technical manuals (Landscape Guidelines Manual; BMP Manual, Part II and Engineering Design Manual) in the grading ordinance and the deletion of a reference for an Erosion and Sediment Control Manual altogether from the municipal code.

The City's Grading Ordinance (Chapter 23.24) is incorporated in its entirety as part of the City's certified LCP. In January 2009, the Commission approved with suggested modifications, the City's LCP Amendment No. 1-08 which involved changes to the Grading Ordinance to respond to the San Diego Regional Water Quality Control Board's (RWQCB) Order No. R9-2007-01 (municipal stormwater permit). The provisions of the Order are intended to strengthen and refine already existing regulations for erosion controls and add requirements for structural and non-structural Best Management Practices (BMPs) with the long range goal of significantly improving the region's water quality. At that time, in addition to the other changes in the grading ordinance, specific portions of the City's Best Management Practices (BMP) Manual, Part II were incorporated by reference into the LCP. The BMP Manual serves as the City's implementation and guidance document to ensure compliance with the development-related requirements and standards established in the RWQCB municipal stormwater permit.

As part of the adopted revisions in LCPA #1-08, the City formally required Commission review and approval of the four technical manuals cited in the Grading Ordinance by adding a phrase "and certification by the Coastal Commission" in conjunction with any action on them. Subsequent to that action, the City expressed concern about the prospect of numerous LCP amendments required for any updating of the applicable manuals; the manuals contain many administrative requirements and technical specifications for the development of grading and erosion control plans which may be subject to routine changes. The City is concerned that the processing of LCP amendments could result in implementation delays for these minor revisions or updates. The City is therefore now

proposing deletion of the cited phrase from the ordinance for three manuals and the deletion of the fourth manual altogether from the code.

B. FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

1) Purpose and Intent of the Ordinance.

The purpose of the Grading Ordinance is to establish minimum requirements for grading, excavating and filling of land, to provide for the issuance of grading permits and to provide for the enforcement of the requirements. It is the intent of the City to protect life and property and promote the general welfare; enhance and preserve the physical environment of the community; and maintain the natural scenic character of the City.

2) Major Provisions of the Ordinance.

The Grading Ordinance contains a number of provisions, including the following:

- When regulations apply and what permits are required;
- Provisions, including environmental protection measures, for grading within floodplains and environmentally sensitive lands;
- Erosion control measures, including rainy season restrictions, and liability.

3) Adequacy of the Ordinance to Implement the Certified LUP Segments.

In November 1994, the Coastal Commission reviewed and approved, with suggested modifications, the City of Encinitas LCP Land Use Plan and Implementation Plan. As part of the submittal and Commission action, the City's grading ordinance (Chapter 23.24) was specifically identified as part of the City's LCP. The sections of the grading ordinance being modified by this current amendment are essentially the same as when they were originally adopted by the Commission with one exception.

In January 2009, the Commission also reviewed and approved, with suggested modifications, revisions to the City's grading ordinance to incorporate certain requirements from the San Diego Regional Water Quality Control Board and the City's municipal stormwater permit in LCP Amendment No. 1-08. The RWQCB Order/municipal stormwater permit sets waste discharge requirements for discharges of urban runoff from the municipal separate storm sewer systems (MS4s) draining the watersheds of the County of San Diego, the incorporated cities of San Diego County, the San Diego Unified Port District and the San Diego County Regional Airport Authority. As part of that action, the City worked with Commission staff, including the Water Quality Unit, to specifically incorporate certain provisions and highlighted sections of its Best Management Practices Manual, Part II into the certified LCP. As adopted in Section

23.24.071 – BMP Manual, Part II, it reads: “Sections of the Best Management Practices Manual Part II are highlighted for the purpose of inclusion into the Local Coastal Program by this reference.”

In addition, as part of that submittal, the City included new language in the four sections subject to the current Commission review that specified Coastal Commission certification would automatically be required for any of the cited manuals. Specifically, the code sections were modified to read that “[u]pon 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.” (underlining indicates the added language) This new language was not required by the Commission. The City has subsequently become concerned about having to process multiple LCP amendments, as well as the related time involved, for any future revisions to these manuals which may be anticipated due to the need to respond to new Regional Board orders or technical updates.

As noted above, the City is therefore requesting the deletion of references requiring Coastal Commission certification of three technical manuals (Landscape Guidelines Manual; BMP Manual, Part II and Engineering Design Manual) and the deletion of a reference for an Erosion and Sediment Control Manual altogether from the municipal code. At present, the City does not have an adopted Landscape Guidelines Manual, but utilizes the County of San Diego’s Landscape Design Manual for guidance. In addition, the City does not have an Erosion and Sediment Control Manual and they do not intend to draft one given that the provisions are otherwise contained within the Grading Ordinance and BMP/Stormwater Manual. For this reason, the City is requesting deletion of that Manual altogether in this amendment.

As stated above, the standard of review for any implementation plan amendment is the amendment’s consistency with and ability to carry out the provisions of the certified LUP. The most applicable provisions of the City’s certified land use plan are as follows:

Public Safety/Policy 1.2, in part: Restrict development in those areas where slope exceeds 25% as specified in the Hillside/Inland Bluff overlay zone regulations of the zoning code. [...] Within the Coastal Zone and for the purposes of this section, “encroachment” shall constitute any activity which involves grading, construction, placement of structures or materials, paving, removal of native vegetation including clear-cutting for brush management purposes, or other operations which would render the area incapable of supporting native vegetation or being used as wildlife habitat. [...]

Public Safety/Policy 1.13: In areas identified as susceptible to brush or wildfire hazard, the City shall provide for construction standards to reduce structural susceptibility and increase protection. Brush clearance around structures for fire safety shall not exceed a 30-foot perimeter in areas of native or significant brush, and as provided by Resource Management Policy 10.1.

Resource Management/Policy 10.1: The City will minimize development impacts on coastal mixed chaparral and coastal sage scrub environmentally sensitive habitats by preserving within the inland bluff and hillside systems, all native vegetation on natural slopes of 25% grade and over other than manufactured slopes. A deviation from this policy may be permitted only upon a finding that strict application thereof would preclude any reasonable use of the property (one dwelling unit per lot). This policy shall not apply to construction of roads of the City's circulation element, except to the extent that adverse impacts on habitat should be minimized to the degree feasible. Encroachments for any purpose, including fire break brush clearance around structures, shall be limited as specified in Public Safety Policy 1.2. Brush clearance, when allowed in an area of sensitive habitat or vegetation, shall be conducted by selective hand clearance.

As evidenced by the cited LUP policies, the coastal resource issues related to grading and erosion control measures would be the protection of steep, naturally vegetated hillsides; the clearance of sensitive vegetation for brush management measures; possible geologic stability questions; preservation of scenic values and the obvious reduction in off-site erosion and polluted runoff. While the Commission appreciates the City's desire to implement and update its erosion and runoff control provisions expeditiously in order to protect coastal resources, the proposed amendment does not really resolve the procedural issue raised by the City. Based on the language adopted in the City's original Grading Ordinance, even without the inclusion of the phrase the City is now seeking to delete, the Commission would typically read such language and cross-references to the manuals as incorporating them into the LCP. Again, the pertinent sentence originally read "[u]pon adoption by the City Council, the contents of that Manual shall be part of the requirements of this Chapter." The "requirements of this Chapter" refers to Chapter 23.24, the City's Grading Ordinance, which is clearly part of the certified LCP. So, the Commission would find such language to mean that the referenced materials are being incorporated into the LCP.

Absent further clarification, any revisions to the Manuals or Grading Ordinance would necessitate LCP amendments based on the existing language. Therefore, the status of these Manuals in the certified LCP must be explicit and there needs to be clarification on the standards for the issuance of any coastal development permits should there be any conflict in the provisions of the identified Manuals and LCP components. While the subject amendment does not propose any specific changes to certified LUP policies or the broader protection measures of the Grading Ordinance, the administration and implementation of the LCP could be adversely affected due to questions about what constitutes the LCP and impacts to coastal resources could then result. Therefore, the subject LCP amendment must be rejected as submitted.

**PART V. FINDINGS FOR APPROVAL OF THE IMPLEMENTATION PLAN
AMENDMENT, IF MODIFIED**

Based on the coordination efforts between the City and Commission staffs in refining and strengthening the grading ordinance and BMP Manual to assure more effective erosion controls and water quality protection, Commission staff has carefully reviewed the technical manuals in question and finds that, in this specific case, the cited manuals do not need to be incorporated into the LCP. Again, as a result of LCP Amendment No. 1-08, the highlighted sections of the BMP Manual, Part II are specifically included in the certified LCP and they comprise the broader policy direction and objectives of that Manual. In fact, at that time, the Commission made findings that stated “the Commission is satisfied that as long as the broad policy requirements and standards are met [within the BMP Manual as highlighted], any technical or administrative changes to the Manual should not need to be part of the LCP.”

There is no Landscape Guidelines Manual currently adopted by the City. For the third manual under review and to be retained by the City, the Engineering Design Manual, there is an adopted document, and after consultation with the Commission’s Water Quality Unit, Commission staff concurs that its contents deal primarily with the preparation and submittal requirements of grading and erosion control plans and the Manual does not need to be incorporated into the LCP. The fourth manual, an Erosion and Sediment Control Manual, is being deleted altogether from the ordinance because its provisions have been incorporated into the BMP Manual.

However, even with the Commission’s conceptual endorsement of the City’s request, the suggested modifications are needed to clarify the status of the three remaining manuals within the certified LCP and to provide a means of reconciling any internal discrepancies or potential conflicts in interpretation over provisions in a manual versus another LCP component. Although the City understands that the certified LCP, including the grading ordinance and the highlighted sections of the BMP Manual, represents the standard of review for the issuance of any coastal development permit, as proposed, the language of the LCP Amendment could still be read to incorporate the manuals into the LCP, while explicitly prohibiting Coastal Commission review of the manuals. The manuals could therefore potentially be changed without Commission approval yet be considered the standard of review for CDPs. The suggested modifications clarify that although the manuals impose requirements on proposed development, those requirements are not part of the LCP, which ensures that there will not be the potential for new requirements to be added to the LCP without Commission review. In addition, the suggested modifications state that to the extent that there are any inconsistencies between the manuals and the LCP, the provisions of the LCP shall be binding. These suggested modifications clarify that the LCP will continue to be the binding standard of review for all proposed development within the City’s coastal zone, even if provisions of the manuals conflict with those policies.

In summary, with the adoption of the suggested modifications, the proposed deletion of the identified technical manuals, except for the highlighted sections of the BMP Manual, Part II, from the certified LCP can be found consistent with the certified land use plan.

The water quality protection policies and development standards remain unmodified in the certified land use plan and grading ordinance, along with specific sections of the BMP Manual. Therefore, there is no potential for any impacts to coastal resources, either individually or cumulatively.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the subject implementation plan amendment, as modified, would not result in any significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

F18C

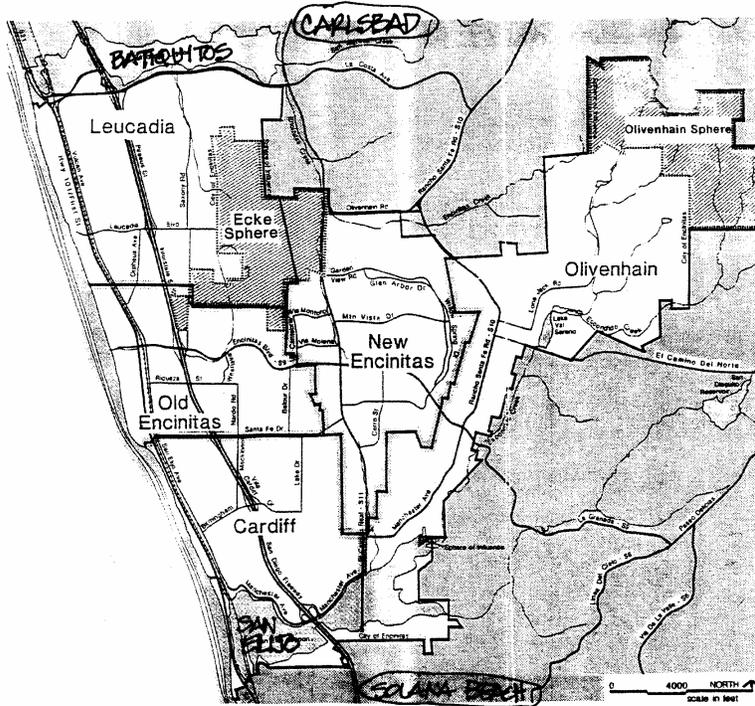


Figure 1
City of Encinitas Communities

Encinitas
General Plan
Amended 6/15/93

↑
NORTH

City of Encinitas
LCPA #1-10
Regional Map

FIBc
RECEIVED

JUL 01 2010

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

ORDINANCE 2010-11

**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 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

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

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, 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)

City of Encinitas
LCPA # 1-10
(Grading Ord. Mods)
Page 1 of 3
Adopted Amendment

23.24.071 - BMP Manual, Part II. Upon adoption by the City Council, the contents of that Manual shall be part of the requirements of this Chapter. 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 are highlighted for the purpose of inclusion into the Local Coastal Program by this reference.

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, 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.

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 April 14, 2010 and will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.

(2 of 3)

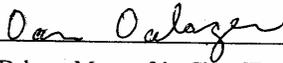
PASSED AND ADOPTED this day 12th Day of May, 2010 by the following vote, to wit:

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

NAYS: None.

ABSTAIN: None.

ABSENT: None.



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 2010-11, which has been published pursuant to law.


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 18th day of May 2010
Deborah Cervone, City Clerk 

(3 of 3)

F18c

ATTACHMENT A

ORDINANCE NO 2010-11

**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 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

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

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. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual. (Ord. 95-04)

City of Encinitas
LCPA #1-10
strike-out/underline
(1 of 2) 53

~~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. 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 are highlighted for the purpose of inclusion into the Local Coastal Program by this reference.

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. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual.

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 April 14, 2010 and will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.

(2 of 2)