

**CALIFORNIA COASTAL COMMISSION**

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October 15, 2015

**W25c**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SD COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SD COAST DISTRICT  
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT  
ERIC STEVENS, COASTAL PROGRAM ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS MAJOR  
AMENDMENT LCP-6-ENC-15-0023-1 (Zoning Clean-up) for Commission  
Meeting of November 4-6, 2015**

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**SYNOPSIS**

The subject LCP implementation plan amendment was submitted on August 31, 2015 and filed as complete on September 28, 2015. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is November 27, 2015.

This report addresses the entire amendment submittal.

**SUMMARY OF AMENDMENT REQUEST**

This request involves a city-initiated Local Coastal Program (LCP) amendment and zoning code amendment to make various minor revisions to the text of the City's Zoning Ordinance and Specific Plans, which are certified as part of its LCP Implementation Plan (IP). No changes to land use or the certified LCP Land Use Plan are proposed herein.

The primary purpose of the City's amendment is to amend many unrelated sections of the Zoning Ordinance that contain minor errors, need clarification, require updates to reflect current conditions, or other "clean-up" revisions. While the vast majority of the proposed revisions are "clean-up" amendments, the City also proposes the addition of various new zoning code matrix classifications related to Acupuncture, Chiropractor, Group Exercise, Tutoring Center, Dental Clinic Canine/Feline, and Cottage Food Operations. The proposed amendment consists of text changes only; the revisions will apply citywide, as well as affect development citywide.

### **SUMMARY OF STAFF RECOMMENDATION**

As noted above, the bulk of the proposed revisions are sought to improve regulatory consistency, provide clarity in the zoning code, improve the usability of the code, and correct minor errors, along with some other minor amendments. Based on staff's analysis, all of the proposed revisions conform with and are adequate to carry out the certified LUP for the City. No adverse impacts to coastal access or coastal resources are anticipated from the proposed changes considered in this amendment.

Therefore, staff is recommending that the amendment be approved as submitted by the City. The appropriate resolution and motion may be found on Pages 3 and 4. The findings for approval of the Implementation Plan Amendment as submitted also begin on Page 4.

### **ADDITIONAL INFORMATION**

Further information on the Encinitas LCP amendment LCP-6-ENC-15-0023-1 may be obtained from Eric Stevens, Coastal Planner, at (619) 767-2370.

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## **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**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request, including a workshop, three hearings, a 45-day public review and comment period to receive initial public comment, and a 6-week public review period on the proposed amendments. All of those local hearings were duly noticed to the public and no members of the public spoke at any of those hearings. Notice of the subject amendment has been distributed to all known interested parties of record for Encinitas matters.

## **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 is provided prior to the resolution.

- I. MOTION:**     *I move that the Commission reject the Implementation Program Amendment # LCP-6-ENC-15-0023-1 for the City of Encinitas LCP as submitted.*

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program Amendment will meet the requirements of 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 or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF ENCINITAS  
IMPLEMENTATION PLAN AMENDMENT # LCP-6-ENC-15-0023-1,  
AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

This request involves a city-initiated LCP amendment and zoning code amendment to make various minor revisions to the text of the City's Zoning Ordinance and various Specific Plans, which are certified as part of its LCP Implementation Plan. No changes to land use or the certified LCP Land Use Plan are proposed herein.

The primary purpose of the City's amendment is to amend many unrelated sections of the Zoning Ordinance and four of the City's Specific Plans (Cardiff-by-The-Sea, Downtown Encinitas, Encinitas Ranch, and North 101 Corridor) that contain minor errors, need clarification, require updates to reflect current conditions, or other "clean-up" revisions. While the vast majority of the proposed revisions are "clean-up" amendments, the City also proposes the addition of various new zoning code matrix classifications related to Acupuncture, Chiropractor, Group Exercise, Tutoring Center, Dental Clinic Canine/Feline, and Cottage Food Operations. The proposed amendment consists of text changes only; the revisions will apply citywide, as well as affect development citywide. Given the bulk of the individual changes being proposed, the City compiled a list of proposed changes to the code sections in strikeout/underline format (Exhibit 2) and proposed changes to the various Specific Plans in strikeout/underline format (Exhibit 3).

## **B. FINDINGS FOR APPROVAL**

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

1) Purpose and Intent of the Ordinance. The primary purpose of this proposed amendment is to amend many unrelated sections of the certified Zoning Ordinance that contain minor errors, warrant clarification, need to be updated to reflect current conditions or mandates, and other minor changes as “clean-up” provisions.

### 2) Major Provisions of the Ordinance.

The major provisions of this proposed amendment request include, but are not limited to, the following:

New Definitions (§ 30.04) and Uses (§ 30.09)

- The definition of “Building Remodel” has been eliminated to reflect current practices related to the determination of City permit fees. The City no longer needs the definition as a threshold for fees.
- “Cottage Food Operation” added as a new definition, a new use in the zoning use matrix, and related amendments to the regulations, to expand the use described as “Home Occupations” in order to comply with changes in state law.
- “Dental Clinic, Canine/Feline” added as a new definition and as a new use in the zoning use matrix to allow specialty, outpatient dental practices for animals to qualify as a “Dental Clinic and Office” use type.
- “Tutoring Center” added as a new definition and as a new use in the zoning use matrix to differentiate tutoring centers from typical business and professional office uses based on the City’s finding that tutoring centers typically have higher parking needs.
- “Acupuncture” and “Chiropractor” added as new uses to the zoning use matrix.
- “Dance Studio” use has been removed from the zoning use matrix and replaced by “Group Exercise,” which includes, but is not limited to, dance studio, yoga, martial arts, Pilates, and other similar group exercise class.

Four of the City’s Specific Plans (Cardiff-by-The-Sea, Downtown Encinitas, Encinitas Ranch, and North 101 Corridor) have also been amended to encompass the above described amendments in their respective zoning use matrices.

### Amended Definitions and IP Regulations

- The definition of “Dwelling, Attached” has been amended to add a foot to the allowable space between dwelling units, consistent with other sections of the Municipal Code.
- The definition of “Kitchen” has been amended to remove specific parameters including a sink, a ¾ inch gas opening, or provision for an electric stove, and instead defines a kitchen as an any area used or intended to be used for the preparation of food, in order to be consistent with the California Residential Code (Cal. Code of Regs., tit. 24, R202, “Kitchen”).
- Changes to the Guest House regulations to clarify that laundry facilities are not allowed. (§ 30.48.40K3.)
- Amendment to regulations for existing nonconforming residential structures to prohibit sideyard setbacks of less than 5 ft. for additions. (§ 30.16.010B9a.)
- Amendments to regulations for canopies and covers for patios/decks in residential zones that would prohibit coverage of more than 50% of the required interior, side, or rear yard, and eliminate the requirement that a roof connecting a main building to an accessory building be open on two sides. Breezeways are deleted as an allowable extension into the rear or side yard. (§ 30.16.010E7.)
- Clarification to regulations for use of a temporary trailer coach during construction of a dwelling. (§ 30.46.110B2.)
- Changes to the sign regulations to allow for multiple monument signs for residential development of 5 units or more, provided that the total of all signs at each entry affording primary vehicular access to a development does not exceed 32 square feet. (§ 30.60.70H.)
- Changes to the sign regulations to replace the existing reference to the Design Review chapter of the zoning code with reference to the City’s Design Guidelines. (§ 30.60.130A.)
- Changes to various sections of the zoning code to require that applicants undertake pre-application conferences with the City to obtain information and inform the City of the applicant’s intentions. (§§ 30.60.20B2; 30.60.030D; 30.20.020A3; 30.72.030A; 30.74.060; 30.82.030A.)

## Reorganized IP Regulations

- Various references to “Floor Area Ratio” have been amended to consolidate and reorganize the references, but no changes to substance are proposed. (§§ 30.04 “Floor Area Ratio”; 30.16.010B7; 30.20.010C7; 30.24.010C7.)

### 3) Consistency with and Adequacy of the Ordinance to Implement the Certified LUP Segments.

As noted above, the standard of review for IP submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The proposed amendment consists of many unrelated “clean-up” changes to the certified zoning ordinance. The proposed amendments do not change the intent of the sections being amended nor do they propose any change in land use or water uses. Most of the amendments proposed are clarifications or procedural in nature and any new requirements do not conflict with existing policy. As a whole, the proposed amendments are drafted and intended to improve code consistency both internally within the municipal code and with the General Plan, LCP and State laws. The proposed revisions are also intended to improve the usability of the code by clarifying both language and processes and improving the relevancy of the code by recognizing current terms and procedures.

Of the miscellaneous revisions, there are a few that warrant some additional explanation:

The proposed changes related to Cottage Food Operations adds a definition for Cottage Food Operation, amends the zoning use matrices, and amends section 30.48.040L of the Home Occupations regulations to include a definition of cottage food operations within the framework of permitted homebased businesses and impose standards, restrictions and requirements on cottage food operations. The amendment is being made in response to a change in State law (Assem. Bill No. 1616 (2011-2012 Reg. Sess.)), requiring cities to permit this type of use in residences. The proposed changes will clarify the City’s “Home Occupations” regulations relating to cottage food operations and will not result in any adverse impacts to coastal resources. The proposed changes are consistent with the City’s certified LUP Land Use Element policies related to residential development, as Home Occupations encourage the concentration of development, which may result in a reduction in the number of vehicular trips. The proposed amendment is not expected to adversely impact coastal resources.

The proposed changes to the definition of “kitchen” and to section 30.48.40K of the Zoning Code, which relates to “Guest Houses”, are proposed to be amended to further deter the illegal conversion of guest houses to dwelling units. As currently certified, guest houses are prohibited from having kitchen facilities, cannot be occupied for more than 30 consecutive days, and cannot be rented or otherwise used as a separate dwelling. The definition of “Kitchen” has been amended to remove the specific parameters of a sink and a ¾ inch gas opening or provision for an electric stove. The proposed change allows the City to better regulate and prevent instances where a property owner may not have a sink

and stove, but still has a space designed to be used for the preparation of food (i.e. using a hotplate, microwave, etc.). In addition, the changes to the Guest Houses regulations will further reduce the conversion of guest houses to illegal dwelling units by prohibiting laundry facilities. Homes with illegal dwelling units often do not have enough on-site parking to accommodate the multiple units on the site and may usurp parking that would otherwise be available for beach users. Thus, the reduction of illegal dwelling units has the potential to improve public access to the coast by opening up additional parking that might otherwise have been utilized by tenants in illegal dwelling units. Clarification to the definition of a “Kitchen” and to the “Guest Houses” regulations in the IP is consistent with the City’s certified LUP Land Use Element policies related to residential development, as the reduction of illegal dwelling units will allow the City to better adhere to the LUP density and parking policies.

The City proposes to amend section 30.60.130 of the Sign chapter of the Zoning Code to clarify that applications for signs must be consistent with the standards established in the City’s Design Guidelines rather than the Design Review Section of the of the Municipal Code (Chapter 23.08). This clarification is appropriate as the Design Review Section of the Municipal Code already references the Design Guidelines, but does not in itself contain specific design parameters for signs. Instead the Design Review Section contains information on what types of signs are exempt from design review requirements and states that the Planning Director has the authority to render final determinations on non-exempt sign applications. Section 5.9 of the City’s Design Guidelines provides detailed design guidelines related to signs. The proposed clarification to the review standard for signs is consistent with the City’s certified LUP Land Use Element policies related to signs.

The City also proposes to amend section 30.60.070 of the Sign chapter of the Zoning Code to allow for multiple signs that identify residential development of five or more units or non-residential uses authorized in residential zones. As amended, up to two signs may be placed on either side of the entry road at each entry affording primary vehicular access to a site, provided that the aggregate total size of the signs at each entry does not exceed 32 sq. ft. As an example, a residential development of five or more units with a front and a rear primary entry road would be permitted to install up to two monument signs totaling 32 sq. ft. at the front entry and up to two monument signs totaling 32 sq. ft. at the rear entry. The proposed amendment is consistent with the LUP Land Use Element Policy 1.10, which states, in part: *“Encourage the reasonable regulation of signs to preserve the basic character of the communities and to avoid adverse effect on property values. New pole and roof signage shall be prohibited. Freestanding monument signs shall be permitted...”* The proposed amendment is not expected to adversely impact community character and is consistent with the visual protection policies of the LUP, which do not restrict how many monument signs are permitted.

All of these specific changes and the other miscellaneous revisions to the IP are in conformance with the certified LUP as they represent the adoption of clarifying provisions to the certified municipal code, and do not constitute material changes to the code.

**PART IV. 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. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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 its action, the City found that the proposed amendments are exempt from environmental review pursuant to CEQA Guideline 15061(b)(3) (Cal. Code of Regs., tit. 14), which exempts projects “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The proposed amendments herein are primarily procedural in nature and do not have a significant effect on the environment. The Commission finds there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms with CEQA provisions.

## ORDINANCE 2015-01

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 30 OF THE ENCINITAS MUNICIPAL CODE AND THE CARDIFF-BY-THE-SEA, DOWNTOWN ENCINITAS, ENCINITAS RANCH AND NORTH 101 CORRIDOR SPECIFIC PLANS

**CASE NUMBER: 14-089 ZOA/SPA/LCPA**

**WHEREAS**, the Planning Commission conducted a noticed workshop on November 6, 2014, to discuss and consider proposed amendments to the Municipal Code Title 30 (Zoning), and the Cardiff-by-the-Sea, Downtown Encinitas, Encinitas Ranch and North 101 Corridor Specific Plans, as well as receive public testimony and provide direction to staff;

**WHEREAS**, the Planning Commission conducted a Public Hearing, and considered public testimony and made a recommendation on December 18, 2014 to the City Council,

**WHEREAS**, a 45-day (June 13, 2014 through July 21, 2014) public review and comment period was provided to receive initial public input on the proposed amendments, and a Public Notice of Availability of proposed Local Coastal Plan Amendments (LCPA) was issued which opened a six-week public review period that ran from October 24, 2014 through December 8, 2014;

**WHEREAS**, the City Council conducted a Public Hearing on February 25, 2015 for the purpose of considering amendments to Title 30 of the Encinitas Municipal Code and the Cardiff-by-the-Sea, Downtown Encinitas, Encinitas Ranch and North 101 Corridor Specific Plans Specific Plans;

**WHEREAS**, the City Council finds that the City's Zoning Code and Specific Plan provisions need to be amended to address changes in State law, correct errors and improve existing regulations;

**WHEREAS**, the City Council finds the proposed text amendments are consistent with the General Plan, the purposes of the Municipal Code, and other applicable City ordinances in that the amendments do not change the intent of the sections to be amended,

**WHEREAS**, the City Council has duly considered all public testimony and the evaluation and recommendation by staff, presented at said hearing, and

**WHEREAS**, the City Council finds that the amendments are consistent with the adopted Local Coastal Plan in that the amendments do not propose any change in land use or water uses. Additionally, this Ordinance is intended to be carried out in a manner in full conformance with the California Coastal Act of 1976 and the Planning and Building Director is hereby authorized to submit this Ordinance as part of the Local Coastal Program Amendment to the California Coastal Commission for their review and adoption.

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



**SECTION ONE:**

Title 30, Zoning of the City of Encinitas Municipal Code is hereby amended to read as follows

SEE EXHIBIT "A"

**SECTION TWO: CARDIFF-BY-THE-SEA SPECIFIC PLAN**

The Cardiff-by-the-Sea Specific Plan is hereby amended to read as follows.

SEE EXHIBIT "B"

**SECTION THREE: DOWNTOWN ENCINITAS SPECIFIC PLAN**

The Downtown Encinitas Specific Plan is hereby amended to read as follows.

SEE EXHIBIT "C"

**SECTION FOUR: ENCINITAS RANCH SPECIFIC PLAN**

The Encinitas Ranch Specific Plan is hereby amended to read as follows

SEE EXHIBIT "D"

**SECTION FIVE: NORTH 101 CORRIDOR SPECIFIC PLAN**

The North 101 Corridor Specific Plan is hereby amended to read as follows.

SEE EXHIBIT "E"

**SECTION SIX: ENVIRONMENTAL DETERMINATION.**

The City Council, in its independent judgment, finds that the adoption of the Zoning Code, Local Coastal Program, and Specific Plan Amendments are exempt from Environmental Review pursuant to the General Rule, Section 15061 (b)(3) of the CEQA Guidelines since there would be no possibility of a significant effect on the environment as the amendments will not directly result in development and any development as a result of the amended language will be subject to CEQA review and analysis. Additionally, the scope of the changes is to correct errors, clarify ambiguities, and reflect current practices. No substantive changes are being made

**SECTION SEVEN: 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 will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas

**SECTION EIGHT: INTRODUCTION.**

This Ordinance was introduced on February 25, 2015.

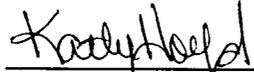
PASSED AND ADOPTED this 18th day of March, 2015 by the following vote to wit:

AYES: Blakespear, Gaspar, Kranz, Muir, Shaffer  
NAYS: None  
ABSTAIN: None  
ABSENT: None

  
Kristin Gaspar, Mayor  
City of Encinitas

**ATTESTATION AND CERTIFICATION.**

I hereby certify that this is a true and correct copy of Ordinance No. 2015-01 which has been published pursuant to law

  
\_\_\_\_\_  
Kathy Hollywood, City Clerk

## COMPREHENSIVE LIST OF PROPOSED AMENDMENTS

### ENCINITAS MUNICIPAL CODE CHAPTER 30 ZONING CODE AMENDMENTS

The proposed Zoning Code Amendments affect the following sections of the Encinitas Municipal Code - Chapter 30 Zoning.

<b>Chapter 30.01</b>	<b>General Provisions</b>
30.01.060	Applications
<b>Chapter 30.04</b>	<b>Definitions</b>
<b>Chapter 30.09</b>	<b>Zoning Use Matrix</b>
<b>Chapter 30.16</b>	<b>Residential Zones</b>
30.16.010	Development Standards
30.16.020	Special Provisions
30.16.030	Mobile Home Park Zone
30.16.040	Packing Plant
<b>Chapter 30.20</b>	<b>Commercial Zones</b>
30.20.010	Development Standards
30.20.020	Special Provisions
<b>Chapter 30.24</b>	<b>Industrial Zones</b>
30.24.010	Development Standards
<b>Chapter 30.28</b>	<b>Public/Semi-Public Zones</b>
30.28.010	Development Standards
<b>Chapter 30.46</b>	<b>Temporary Use Regulations</b>
30.46.110	Use of a Trailer Coach
<b>Chapter 30.48</b>	<b>Accessory Use Regulations</b>
30.48.040	Residential and Agric
30.48.060	Manufacturing and Ind

EXHIBIT NO. 2

Zoning Amendments

LCP-6-ENC-15-0012-1 Zoning Clean Up  
California Coastal Commission

30.48.070	Retail Sales in Manufacturing and Industrial Zones
<b>Chapter 30.54</b>	<b>Off-Street Parking</b>
30.54.30	Schedule of Required Off-Street Parking
<b>Chapter 30.56</b>	<b>Recycling Facilities</b>
30.56.030	General Requirements
<b>Chapter 30.60</b>	<b>Signs</b>
30.60.070	Residential Permanent Sign Standards
30.60.100	Nonresidential Permanent Sign Standards
<b>Chapter 30.72</b>	<b>Zoning Amendments</b>
30.72.030	Application for Amendment
<b>Chapter 30.74</b>	<b>Use Permits</b>
30.74.050	Notice
30.74.060	Procedure
30.74.130	Suspension of Use Permit
<b>Chapter 30.78</b>	<b>Variances</b>
30.78.020	Authority to Grant a Variance
<b>Chapter 30.80</b>	<b>Coastal Development Permits</b>
30.80.020	Authority to Grant a Permit
<b>Chapter 30.82</b>	<b>Local Coastal Development Permit</b>
30.82.030	Submittal of Application for Amendment to the LCP

## CHAPTER 30.01– GENERAL PROVISIONS

### Section 30.01.060

#### 30.01.060 Applications.

A. An approval for a discretionary or ministerial approval or permit authorized by this Title shall be made on the form approved by the Director.

B. To be received for filing, the application must be complete and the applicant must submit a fee and/or deposit a sum in an the amount identified in accordance with the current Planning Fee Schedule determined by the Director to be the estimated processing fee. The required fees and/or deposit amounts identified in the Planning Fee Schedule may be determined from time to time by resolution.

~~C. The Director shall determine the amount of the deposit by reference to a cost schedule approved by resolution of the City Council.~~

~~CD. For projects which a deposit is required, A~~dditions to the deposit may be required by the Director and shall be paid by the applicant or the processing of the application shall be terminated.

Section 30.01.060 has been amended to reflect collection of fees and deposits as per current Planning Fee Schedules.

## CHAPTER 30.04 – DEFINITIONS

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building and accessory use does not alter the principal use of such lot or building.

The definition for “Accessory Use” has been amended for clarity. As currently defined, “...a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter...” the word “which” has been replaced with the word “and”.

AGGRIEVED PERSON In accordance with Sections 30625 and 30801 of the Public Resources Code as amended, an “aggrieved person” means any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or the City of Encinitas in connection with the decision or action \*appealed, or who, by other appropriate means prior to a hearing with the Coastal Commission or City of the nature of his/her concerns or who for good cause was unable to do either. “Aggrieved person” includes the applicant for a permit and, in the case of an approval of a Local Coastal Program Amendment for the City of Encinitas, the City of Encinitas. (Ord. 95-04). (\*See Chapter 1.12.010 through 1.12.060).

The definition for “Aggrieved Person” has been update to include the word “Amendment” because the City already has an approved Local Coastal Program and any change to the document would require an amendment.

~~BUILDING REMODEL shall mean a building that is being remodeled is capable of supporting or sheltering the use or occupaney permitted by the zoning designation assigned to the property. Once the structure or portion thereof is removed that prevents occupaney of the entire dwelling unit pursuant to the definition in Section 202 of the City’s Adopted Building Code, the structure shall be considered new and subject to the applicable standards, i.e., traffic impact fees, and other regulations. This policy would consider reroofing, second story addition over existing first floor, or exterior residing as a structural remodel provided the exterior support walls remain. (Ord. 2010-13)~~

The definition for “Building Remodel” has been deleted since City impacts fees now have a threshold and do not need to rely on the definition of “building remodel”.

COTTAGE FOOD OPERATION shall mean a residential use where cottage food products are prepared or packaged for direct and/or indirect sale to consumers as defined by California Health and Safety Code Section.

A definition for “Cottage Food Operation” has been added as defined by California Health and Safety Code Section 113758 to address California State Assembly Bill 1616, Cottage Food Operations, which became effective on January 1, 2013.

~~CHILD DAY CARE FACILITY shall mean any child day care facility as defined in Section 1596.750 of the California Health and Safety Code other than family day care homes. (Ord. 2002-02).~~

The definition “Child Day Care Facility” has been deleted as a standalone definition; however, has been combined into the definition “Day Care Center”, which is used in the Use Matrix. Child Day Care Facility is not listed in the Use Matrix.

DAY CARE CENTER shall mean any child day care facility as defined by and subject to the California Health and Safety Code other than a family day care home, and includes infant centers, preschool and extended day care facilities. (Ord. 92-28)

The definition for “Day Care Center” has been amended to include a portion of the definition for “Child Day Care Facility” and Planning Commission’s direction from their December 18, 2014 meeting as follows: as defined by and subject to the California Health and Safety Code Section 1596.750

DENTAL CLINIC, CANINE/FELINE shall mean a general dental clinic for the maintenance (or care) of canine/feline oral health only. All treatments are performed on an outpatient (leaving the same day) basis. No animals are boarded or kept at the premises after hours.

The definition “Dental Clinic, Canine/Feline” has been added based on the Council’s determination that a specialty dental practice for animals qualifies as a “Dental Clinic and Office” use type within the ER-MU2 zone at the December 11, 2013 City Council meeting.

DWELLING, ATTACHED shall mean any dwelling structurally connected or within less than 6’ 5” of another dwelling located on the same parcel. (Ord. 89-41)

The definition for “Dwelling, Attached” has been amended to consider twinhomes, which are attached at the property line and are located on separate lots.

FLOOR/AREA RATIO is the numerical value, expressed as a decimal fraction obtained by dividing the total floor area by the gross lot area of the lot or lots on which one or more structures are located. (Ord. 2003-10).

~~For purposes of determining FAR, the following floor area is excluded: (Ord. 2003-10).~~

~~A. Up to 400 square feet per dwelling unit for a garage or carport.~~

~~B. Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below.~~

~~C. Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. Columns to support structure above shall not count toward this 50%, such that typical open building recess areas and patios are not counted as floor area.~~

~~D. Floor area which has less than five feet of headroom between the floor and the ceiling.~~

~~E. That portion of the floor in the basement.~~

~~F. Floor area used solely for the capture, distribution or storage of solar energy.~~

The definition for “Floor Area Ratio” has been amended to only define what FAR means. How FAR is determined (A through F) has been moved to EMC Sections 30.16.010B7, 30.20.010C7 and 30.24.010C7 where applicable.

GUEST HOUSE shall mean an accessory building which is designed to be occupied by one (1) or more guests on a temporary basis ~~(no more than 30 consecutive days) which has no kitchen facilities and is not rented or otherwise used as a separate dwelling.~~

The definition for “Guest House” has been amended to clarify the definition only. The remainder of the sentence is already outlined in Chapter 30.48 Accessory Use Regulations.

JUNKYARD shall mean any parcel, lot contiguous lots or portions thereof used for the keeping, storage, or salvaging of junk, ~~or containing any activity in the Scrap Operations use type.~~

The definition for “Junkyard” has been amended to remove “Scrap Operations”, which is not a use type listed or defined in the Municipal Code.

KITCHEN shall mean an area used, or designated to be used, for the preparation of food, ~~any room used or intended or designed to be used for cooking or the preparation of food, including any room having a sink and a ¾ inch gas opening or provision for an electric stove.~~

The definition for “Kitchen” is not consistent with current City practice and has been amended to be consistent with the California Residential Code.

~~GROSS AREA shall mean the total horizontal area within the lot lines of a lot or parcel of land before public or private streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.~~

The definition for “Gross Area” has been incorporated into the definition “Lot Area, Gross” and is no longer needed as a stand alone definition.

LOT AREA, GROSS shall mean the total horizontal area within the lot lines of a lot or parcel of land before public or private streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel. The area of a legally created parcel including:

~~A. All private streets and other easements (such as open space easements) where the underlying property is held in fee title.~~

~~B. The area to the centerline of any abutting Non-Circulation Element Route public street right of way, and~~

~~C. Only the 30-foot local interest portion of any abutting Circulation Element Route street right of way shall be included.~~

The definition for “Lot Area, Gross” has been amended to clarify the definition, which includes language from the definition “Gross Area”, which is no longer needed.

RESIDENTIAL ZONE shall mean any property within the City which carries a zoning designation permitting the location of a residence, ~~including the RRFP [Rural Residential/Flood Plan]; RR [Rural Residential]; RR-1 [Rural Residential-1]; RR-2 [Rural Residential-2]; R-3 [Residential-3]; R-5 [Residential-5];~~

~~R-8 [Residential 8]; RS-11 [Single Family Residential 11]; R11 [Residential 8.01-11.0 dwelling units per acre (“du/ac”)]; R-15 [Residential 15]; R-20 [Residential 20]; R-25 [Residential 25]; MHP [Mobile Home Park]; D-R11 [Residential 8.01-11.0 du/ac]; D-R15 [Residential 11.01-15.0 du/ac]; D-R25 [Residential 15.01-25.0 du/ac]; ER-SFR3 [Encinitas Ranch Specific Plan Residential 3.0 du/ac]; ER-SFR3V [Encinitas Ranch Specific Plan Residential 3.0 du/ac variance]; ER-SFR5 [Encinitas Ranch Specific Plan Residential 5.0 du/ac]; NR3 [Residential 2.01-3 du/ac]; NR8 [Residential 5.01-8 du/ac]; NR11 [Residential 8.01-11 du/ac]; NR15 [Residential 11.01-15 du/ac]; NR20 [Residential 15.01-20 du/ac]; and NR25 [Residential 20.01-25 du/ac].~~  
**However,** A residential zone does not include zones where a residence is permitted pursuant to a conditional use permit, ~~or~~ other special permit or mixed use zone. (Ord. 2002-02).

The definition “Residential Zone” has been amended to clarify and shorten the definition.

TUTORING CENTER shall mean any educationally oriented facility that provides personalized academic assistance. The facilities themselves are not schools.

The definition “Tutoring Center” has been added. In the past, staff has permitted the use under “office (business and professional)”; however, finds tutoring centers should be a stand-alone uses which require a use permit based on parking needs.

### CHAPTER 30.09 – ZONING USE MATRIX

	RR-1 RR-2	RS-11 R-3 R-5 R-8	R-11 R-15	R-20 R-25	MHP	OP	LC	GC	VSC	LI	BP	P/SP	ER/OS	L-LC	L-VSC
Accessory Building	P	P	P	P	P	X	P	P	P	P	P	P	X	P	P
<u>Acupuncture</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>X</u>	<u>Cm</u>	<u>X</u>
Adult Business (Ord. 2002-02) (City Clerk permit possible)	X	X	X	X	X	X	X	P****	X	X	X	X	X	X	X

The use “Acupuncture” has been added as a newer use type to the Use Matrix. In the past, staff has permitted the use “Acupuncture” under the use “Medical/Dental Office”. The use has also been added to all the Specific Plans where applicable.

Ceramic Products Manufacturing	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X
<u>Chiropractor</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>X</u>	<u>Cm</u>
Charitable Bins & Depositories	X	X	X	X	X	X	X	P	P	X	P	P	X	X	X

The use “Chiropractor” has been added as a newer use type to the Use Matrix. In the past, staff has permitted the use “Chiropractor” under the use “Medical/Dental Office”. The use has also been added to all the Specific Plans where applicable.

Costume Rentals	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
<u>Cottage Food Operations</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>									
Courts, Commercial (Badminton, Tennis, Racquetball, Others)	X	X	X	X	X	Cm	X	X	C						

The use "Cottage Food Operations" has been added to the Use Matrix address California State Assembly Bill 1616, Cottage Food Operations, which passed and became effective on January 1, 2013. The use has also been added to all the Specific Plans where applicable.

<u>Dance Studio</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>X</u>
Delicatessen	X	X	X	X	X	P*	P	P	X	P	C	X	X	Cm	X

\* Ancillary Use

The use "Dance Studio" has been deleted from the Use Matrix and has been replaced with "Group Exercise", which encompasses similar uses that are conducted in a group setting.

Dental Clinic	X	X	X	X	X	P	P	P	X	X	Cm	X	X	X	X
<u>Dental Clinic, Canine/Feline</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Department Store	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X

The use "Dental Clinic, Canine/Feline" has been added to the Use Matrix based on the Council's determination that a specialty dental practice for animals qualifies as a "Dental Clinic and Office" use type within the ER-MU2 zone at the December 11, 2013 City Council meeting. The use has been added to the Municipal Code and all Specific Plans. The use has also been added to all the Specific Plans where applicable.

Golf Driving Range (not part of golf course).	X	X	X	X	X	X	X	X	C	X	X	C	C**	X	X
<u>Group Exercise****</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>Cm</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>X</u>
Group Residential (Ord. 2005-13)	X	X	C	C	X	X	X	X	X	X	X	X	X	X	X

\*\*\*\* Including but not limited to dance studio, yoga, martial arts, Pilates or other similar exercise group class.

The use "Dance Studio" has been replaced with "Group Exercise", which encompasses similar uses that are conducted in a group setting. Uses include, but are not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class. A footnote has been included to note the allowance for other similar types of group exercise under this use.

Truck Sales	X	X	X	X	X	X	X	Cm	X	C	X	X	X	X	X
<u>Tutoring Center</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>Cm</u>	<u>Cm</u>	<u>X</u>	<u>X</u>	<u>Cm</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
Upholstery Installation	X	X	X	X	X	X	X	Cm	X	P	X	X	X	X	X

The use "Tutoring" has been added as a newer use type to the Use Matrix. In the past, staff has permitted "Tutoring" (i.e. after school learning programs) under "Office (business/professional)". However, tutoring would be more appropriate as a stand-alone use to address parking which is often more intensive than for an office type use. The use has also been added to all the Specific Plans where applicable.

## CHAPTER 30.16 – RESIDENTIAL ZONES

### Section 30.16.010

#### 30.16.010B7

7. Floor Area Ratio (FAR) shall limit the amount of floor area of a building on a lot or lots. ~~FAR is determined by dividing the total bulk floor area by the gross lot area of the lot or lots on which one or more structures are located. The bulk floor area is the area per UBC included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts, courts and architectural projections not utilized as livable area. The floor area bulk of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. Bulk floor area excludes: (Ord. 92-21)~~
- ~~a. — Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below. (Ord. 92-21)~~
  - ~~b. — Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. (Ord. 92-21)~~
  - ~~c. — Floor area which has less than five feet of headroom between the floor and the ceiling. (Ord. 89-41)~~
  - ~~d. — That portion of the floor in the basement. (Ord. 89-41)~~
  - ~~e. — Floor area used solely for the capture, distribution or storage of solar energy. (Ord. 89-41)~~
  - ~~f. — Up to 400 square feet per dwelling unit for a garage or carport. (Ord. 92-21)~~

For purposes of determining FAR, the following floor area is excluded: (Ord. 2003-10).

- A. Up to 400 square feet per dwelling unit for a garage or carport.
- B. Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below.
- G. Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. Columns to support structure above shall not count toward this 50%, such that typical open building recess areas and patios are not counted as floor area.
- H. Floor area which has less than five feet of headroom between the floor and the ceiling.
- I. That portion of the floor in the basement.
- J. Floor area used solely for the capture, distribution or storage of solar energy.

Section 30.16.010B7 has been amended to include language on how to determine FAR, which was removed from the definition of FAR in Chapter 30.04.

### 30.16.010B9a

9. Additions to existing nonconforming residential structures that were legally constructed prior to March 29, 1989, shall have an interior side yard setback in accordance with the following: (Ord. 94-11)
- a. The existing interior side yard setback of the existing building may be maintained except that in no case shall the interior side yard setback of the addition be less than:
    - (1) 10' for a 15' required side yard setback.
    - (2) 5' for a 10' required side yard setback.
    - (3) In no case shall a side yard setback of less than 5' be permitted, including those existing structures located within a minimum 5' side yard setback.

Section 30.16.010B9a allows existing nonconforming residential structures legally constructed prior to 1989 to maintain their nonconforming side yard setback for additions as long as the addition is not less than 10' for a required 15' setback and 5' for a required 10' setback. It does not, however, address additions to existing structures located within a minimum 5 foot side yard setback. Therefore, this section has been amended so that in no case shall a setback of less than 5 feet be allowed.

### 30.16.010B9c

c. Additions in conformance with subsection 9a above shall be limited to one story for an existing nonconforming single story dwelling unless it is determined that no view issues exist. Should no view issues exist based on the filing of a Conceptual Review application and subsequent site analysis, the Director of Planning and Building shall approve a second story addition based on the setbacks of subsection 10a above. ~~The adjacent property owners shall be notified of the decision and be given the opportunity of an appeal.~~ Should If it is determined that view issues exist, the applicant may file a Design Review application must be filed and to have their application considered at a public hearing scheduled before the ~~Community Advisory Board~~ Planning Commission. (2003-08).

The last sentence in Section 30.16.010B9a has been amended to remove reference to a Community Advisory Board, which no longer exists and has been replaced with a Planning Commission.

### 30.16.010C

C. SINGLE-FAMILY RESIDENTIAL ZONES (/RR-2/R-3/R-5/R-8/RS-11). In the single-family residential zones, the following development standards shall apply in addition to A & B of this Section: (Ord. 2003-10).

1. Residences shall be oriented with the rear of the residence toward collector and larger streets where possible, consistent with the pattern of development in the neighborhood. (Ord. 2003-10).
2. Walkways connecting with City sidewalk/trail systems shall where practical be provided in new residential developments. (Ord. 2003-10).
3. Driveway or other concrete or asphalt concrete areas available for parking shall not exceed fifty (50) percent where practical of the required front yard area. (Ord. 2003-10).

~~4. The front yard setback for R-11 zones may be reduced to 15 feet provided that the subject parcel is substandard in either size or the depth of the lot, and an alley abuts the rear of the parcel where the required parking is to be located. No paving (impervious surfaces) shall be permitted in the front yard other than a~~

~~pedestrian sidewalk to the front entry with the rest of the front yard being landscaped when the front setback is so reduced. (Ord. 2003-10).~~

~~45.~~ To the extent practical, access to the garage shall be from the alley or side street, if available. (Ord. 2003-10).

Section 30.16010C has been amended by deleting subsection C4, which does not apply to this section, which references the R-11 zone.

### **30.16.010D**

D. HIGHER DENSITY SINGLE-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL ZONES (R-11/R-15/R-20/R-25). (Ord. 89-41) In the higher density single-family and multiple-family residential zones, including the conversion of apartments to condominiums, the following development standards shall apply in addition to A & B of this Section:

1. A minimum of ten (10) percent of the floor area of the unit shall be provided as private open space for both ground floor units and units contained wholly on the second floor. For units wholly on the second floor this open space may be provided by outdoor decks.
2. Architecturally compatible trash enclosures, and adequate areas for collecting and loading recyclable materials, screened from view of the roadway, and convenient to all dwelling units within the project, shall be provided. (Ord. 93-14)
3. A minimum of fifteen (15) feet wide of screen type landscaping shall be provided and maintained on the project side of any property line separating the project from a rural residential or single-family residential zone.
4. A minimum of 250 cubic feet of lockable, enclosed storage area per unit shall be provided within a garage/carport area, or within the main building.
5. Fully screened recreation vehicle parking areas shall be provided or the development shall prohibit all parking of recreation vehicles.
6. A minimum of thirty (30) trees per net acre shall be required as part of the project landscaping; the trees shall consist of a combination of box specimen and fifteen (15) gallon sizes. Smaller sized trees may be approved provided said trees reach a desired maturity height within 3 years after project occupancy.
7. A masonry wall, or equal six (6) feet in height from the highest finished grade may be required along the project's rear and side property lines, unless the property line separates two higher density residential projects. Where the adjacent grade of abutting property is four (4) feet or more lower or higher than the project site, the masonry wall shall be a minimum of six (6) feet in height. No walls are required in front or street side yards unless needed for noise attenuation and/or privacy. All masonry walls greater than 4 feet in height shall be planted with vine cover material (or equal landscaping).
8. The following recreation facilities shall be provided unless waived during the Design Review process:
  - a. Childrens' play area
  - b. Swimming pool
  - c. Family picnic area
9. Auxiliary structures/equipment and utilities. The following development standards related to auxiliary structures/equipment and utilities shall apply:

- a. All roof appurtenances including, but not limited to air conditioning units, and mechanical equipment shall be shielded and architecturally screened from view from on-site parking areas, adjacent public streets and adjacent properties;
- b. All ground-mounted mechanical equipment, including heating and air condition units, and trash receptacle areas and adequate areas for collecting and loading recyclable materials, shall be completely screened from surrounding properties by use of a wall, fence, or landscaping, or shall be enclosed within a building; (Ord 93-14)
- c. All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Pad-mounted transformers and/or meter box locations shall be included in the site plan with an appropriate screening treatment. All new and existing utility connections within the boundaries of the project shall be placed underground, with the exception of existing overhead power transmission lines in excess of 34.5 KV and long-distance and main trunk communications facilities. Transformer, terminal boxes, meter cabinets, pedestals, concealed ducts and other facilities may be placed above ground provided they are screened with landscaping.
- d. Trash receptacles and adequate areas for collecting and loading recyclable materials enclosed by a six-foot high masonry wall with view-obstructing gates shall be provided in an acceptable location; (Ord. 93-14)
- e. Outdoor storage and sales areas shall be entirely enclosed by solid masonry walls not less than six (6) feet in height to adequately screen such areas from view. Reasonable substitutions such as masonry, wood or metal pilasters with wrought iron or chain link and view obscuring material may be approved during Design Review.

10. The front yard setbacks may be reduced to 15 feet provided that the subject parcel is substandard in either size or the depth of the lot, and an alley abuts the rear of the parcel where the required parking is to be located. No paving (impervious surfaces) shall be permitted in the front yard other than a pedestrian sidewalk to the front entry with the rest of the front yard being landscaped. (Ord. 89-41)

11. Residences shall be oriented with the rear of the residence toward collector and larger streets where possible, consistent with the pattern of development in the neighborhood. (Ord. 2003-10).

12. Walkways connecting with City sidewalk/trail systems shall where practical be provided in new residential developments. (Ord. 2003-10).

13. Driveway or other concrete or asphalt concrete areas available for parking shall not exceed fifty (50) percent where practical of the required front yard area. (Ord. 2003-10).

14. To the extent practical, access to the garage shall be from the alley or side street, if available. (Ord. 2003-10).

Section 30.16.010D has been amended whereby adding subsections C1, C2, C3, and C4 from Section 30.16.010C.

**30.16.010E7**

7. Canopies, ~~and~~ covers for a patios/decks with the floor less than 30 inches above grade, ~~and breezeways attached to the main building or connecting the main building with a detached accessory building,~~ may extend into a required rear or interior side yard provided that portions of such structures extending into the required yard area meet the following: (Ord. 89-41)

- a. The canopy, covered patio/~~deck, or breezeway~~ or deck shall not exceed twelve (12) feet in height or project closer than five (5) feet to an interior side yard lot line or closer than ten (10) feet at the rear lot line; (Ord. 89-41)
- b. The canopy; or covers for a patio/deck ~~or breezeway~~ shall be entirely open on at least three sides except for necessary supporting columns. ~~A roof connecting a main building and an accessory building shall be open on two sides.~~ (Ord. 89-41)
- c. The canopy shall not cover more than 50% of the required interior side or rear yard.

Section 30.16.010E7 has been amended to reflect current city practice and clarify regulations.

### 30.16.010E9

- 9. ~~A tennis court fence may be located within an interior side yard or rear yard; provided that the structure is located no closer than five feet to an interior side or rear lot line and said fence does not exceed 12 feet in height. (Ord. 89-41)~~

Section 30.16.010E9 has been deleted because it is addressed verbatim in Section 30.16.010F5, which is the appropriate location.

## Section 30.16.020

### 30.16.020B

B. PLANNED RESIDENTIAL DEVELOPMENT. The Planned Residential Development (PRD) regulations are intended to facilitate development of areas zoned for residential use by permitting greater flexibility and, consequently, more creative and imaginative designs for the development of such residential areas than is generally possible under conventional zoning and subdivision regulations. These regulations are further intended to promote more economical and efficient use of land while providing a harmonious variety of housing choices, a higher level of residential amenities, and preservation of natural resources and open space. Affordable housing opportunities are encouraged through the application of this Section, the Density Bonus provisions pursuant to Section 30.16.020C, and the ~~Accessory Apartment~~ accessory unit provisions pursuant to Section 30.48.040~~WT~~. A PRD may be approved for any residentially-zoned property. Attached unit development within a PRD is permitted in a single-family zone provided that the Planning Commission finds that such development is compatible with, and will not adversely affect neighboring properties.

Section 30.16.020B has been amended to correctly refer to “accessory unit”.

### 30.16.020B2

- 2. Pre-Application Conference. Prior to submitting an application for a use permit for a planned residential development, ~~it is recommended that~~ a prospective applicant should shall consult with the ~~Community Development Planning and Building~~ Department to obtain information ~~to review the proposed application. At the applicant's request and after payment of a pre-application fee, the Department will schedule a conference to be attended by the applicant, representatives of the various City Departments, and a subcommittee of the Planning Commission composed of the Chair and Vice Chair. (Ord. 96-07) and to inform the Department of the applicant's intentions.~~

Section 30.16.020.B2 has been amended to update a Pre-application Conference prior to submittal of an application for a planned residential development.

### 30.16.030D

D. Pre-Application Conference. Prior to submitting an application for a use permit for a mobilehome park, a prospective applicant ~~should shall~~ consult with the ~~Community Development Planning and Building~~ Department to obtain information and ~~to inform the Department of the applicant's intentions. If requested by the applicant, the Department will schedule a conference to be attended by the applicant and representatives of the various City departments, and other agencies as the Department consider necessary. Such a conference shall provide an opportunity to review the applicant's intended plan, and identify potential requirements or subjects requiring particular attention prior to the applicant entering into binding commitments or incurring substantial expense in preparing plans, surveys, and other data.~~ to inform the Department of the applicant's intentions. The applicant shall provide a map showing the proposed mobilehome park site, existing topography, adjoining road rights-of-way, and public access.

Section 30.16.030D has been amended to update a Pre-application Conference prior to submittal of an application for a mobilehome park.

### 30.16.040A3

3. Existing greenhouses shall mean those greenhouses legally existing on the date of adoption of this section, ~~(DATE OF ADOPTION)~~ July 27, 1994.

Section 30.16.040.A3 has been amended to reflect the actual adoption date.

## CHAPTER 30.20 – COMMERCIAL ZONES

### Section 30.20.010

#### 30.20.010A

A. The development standards described in the table below shall apply to the Commercial zones and are minimums unless otherwise stated. These standards shall apply to all land and buildings ~~other than accessory buildings,~~ permitted in their respective commercial zones. In addition to the development standards provided in this Chapter, each specific plan identified in Chapter 30.84, Specific Plans, may have separate development standards for Commercial zones in their jurisdictional boundaries. Refer to individual specific plans, as referenced in Chapter 30.84, for development standards in Commercial zones within adopted specific plans. (Ord. 94-02)

Section 30.20.010A has been amended to remove reference to accessory buildings which are regulated in Section 30.20.010J.

#### 30.20.010C7

7. Floor Area Ratio (FAR) shall limit the amount of floor area of a building on a lot or lots. ~~FAR is determined by dividing the total bulk floor area by the gross lot area of the lot or lots on which one or more structures are located. The bulk floor area is the area per UBC included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area bulk of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. See the definition of floor area bulk for any exclusions. Building overhangs, eaves and other similar architectural features shall not be included in the bulk floor area. (Ord. 89-41)~~

For purposes of determining FAR, the following floor area is excluded: (Ord. 2003-10).

- A. Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below.
- B. Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. Columns to support structure above shall not count toward this 50%, such that typical open building recess areas and patios are not counted as floor area.
- C. Floor area which has less than five feet of headroom between the floor and the ceiling.
- D. That portion of the floor in the basement.
- E. Floor area used solely for the capture, distribution or storage of solar energy.

Section 30.20.010C7 has been amended to include language on how to determine FAR, which was removed from the definition of FAR in Chapter 30.04.

### **Section 30.20.020**

#### **30.20.020A3**

3. Pre-Application Conference. Prior to submitting an application for a Zoning Map Amendment and Major Use Permit for a Planned Commercial Development proposal, it is recommended that a prospective applicant ~~should~~ shall consult with the ~~Community Development Planning and Building~~ Department to obtain information and ~~to review the proposed application~~ At the applicant's request and after payment of a pre-application fee, the Department will schedule a conference to be attended by the applicant, representatives of the various City Departments, and a subcommittee of the Planning Commission composed of the Chair and Vice Chair. (Ord. 96-07) to inform the Department of the applicant's intentions.

Section 30.20.020A3 has been amended to update a Pre-application Conference prior to submittal of an application for a planned commercial development.

## **CHAPTER 30.24 – LIGHT INDUSTRIAL ZONE**

### **Section 30.24.010**

#### **30.24.010A**

A. The development standards described in the table below shall apply to the Light Industrial zones and are minimums unless otherwise stated. These standards shall apply to all land and buildings ~~other than accessory buildings,~~ permitted in their respective light industrial zone. In addition to the development standards provided in this Chapter, each specific plan identified in Chapter 30.84, Specific Plans, may have separate development standards for Industrial zones in their jurisdictional boundaries. Refer to individual specific plans, as referenced in Chapter 30.84, for development standards in Industrial zones within adopted specific plans. (Ord. 94-02)

Section 30.24.010A has been amended to remove reference to accessory buildings which are regulated in Section 30.24.010I.

#### **30.24.010C7**

7. Floor Area Ratio (FAR) shall limit the amount of floor area of a building on a lot or lots. ~~FAR is determined by dividing the total bulk floor area by the gross lot area of the lot or lots on which one or more structures are located. The bulk floor area is the area per UBC included within the surrounding exterior walls of a building or portion thereof, exclusive of~~

~~vent shafts and courts. The floor area bulk of a building or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. See the definition of floor area bulk for any exclusions. Building overhangs, eaves and other similar architectural features shall not be included in the bulk floor area. (Ord. 89-41)~~

For purposes of determining FAR, the following floor area is excluded: (Ord. 2003-10).

- A. Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below.
- B. Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. Columns to support structure above shall not count toward this 50%, such that typical open building recess areas and patios are not counted as floor area.
- C. Floor area which has less than five feet of headroom between the floor and the ceiling.
- D. That portion of the floor in the basement.
- E. Floor area used solely for the capture, distribution or storage of solar energy.

Section 30.24.010C7 has been amended to include language on how to determine FAR, which was removed from the definition of FAR in Chapter 30.04.

## CHAPTER 30.28 – PUBLIC/SEMI-PUBLIC ZONE

### 30.28.010A10

10. Floor/Area Ratio (maximum ~~building~~ .50  
~~floor area divided by net area~~)

Section 30.28.010A10 has been revised to be consistent with the rest of code whereby defining FAR in Chapter 30.04.

## CHAPTER 30.46 – TEMPORARY USE REGULATIONS

### Section 30.46.110

#### 30.46.110B2

2. When there is no other habitable dwelling on the property ~~Dwelling on land owned by the applicant~~ on which the applicant is diligently pursuing construction of ~~the first a~~ permanent dwelling pursuant to procedures and timing for a building permit.

Section 30.46.110B2 has been amended to permit a temporary trailer coach for a residential use when there is no other habitable dwelling on the property. The amendment also includes Planning Commission's direction from December 18, 2014 to include "pursuant to procedures and timing for building permit".

#### 30.48.040L.

- L. Home Occupations. Home occupations shall be permitted in compliance with the following conditions:

1. There shall be no exterior evidence of the conduct of a home occupation out of character with the normally appropriate appearance of the dwelling.
2. A home occupation shall be conducted entirely within a dwelling, or a garage.
3. Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited.
4. Only the residents of the dwelling unit may be engaged in the home occupation except by a temporary Minor Use permit, exception being Cottage Food Operation.
5. There shall be no on-premise sale of goods not produced on the premises.
6. The establishment and conduct of a home occupation shall not change the principal character or use of the dwelling unit involved.
7. There shall be no signs other than those permitted by this ordinance.
8. The required residential off-street parking shall be maintained.
9. A home occupation shall not create vehicular or pedestrian traffic in excess of that which is normal for the zone in which it is located.

10. A Cottage Food Operation, as defined in the California Homemade Food Act, shall comply with California Health and Safety Code Section 113758.

Section 30.48.040L has been amended to address California State Assembly Bill 1616, Cottage Food Operations, which passed and became effective on January 1, 2013.

#### **30.48.040W**

V. Wind Turbine Systems, Small. A wind turbine system, small shall be permitted on a building site in compliance with the following conditions:

1. Setback. The system shall be set back from property lines and roads at least 2 times the height of the wind system (to the top of the blade in vertical position).
2. Fencing. Public access to the wind turbines shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.
3. Signs. Suitable warning signs containing a telephone number for emergency calls shall face all approaches to the system. Individual signs shall be between 5 and 16 square feet.
4. Noise. The wind turbine shall be operated in such manner that it does not exceed the sound level limits of the Municipal Code.

~~W. Any waiver or modification of the above requirements shall be allowed only in accordance with a Variance.~~

~~XW.~~ Bed and Breakfast Home. A bed and breakfast home is a permitted accessory use upon issuance of a minor use permit provided the following conditions are complied with:

1. Located in a residential zone or in a designated Historic building, or conducted within a structure which was constructed prior to 1936.

2. A maximum of five bedrooms shall be made available for rent. A bed and breakfast home having more than five bedrooms available for rent may be approved if the home is designated a Historic Landmark in accordance with the Historic Landmark Designation.
3. No bed and breakfast home shall be located on a lot closer than 200 feet from any other lot containing a bed and breakfast home. The 200 foot distance shall be measured in a straight line connecting the closest points on the lot lines and without regard for intervening structures.
4. The owner or lessee of the property shall operate the facility and reside in the home.
5. One off-street parking space for each room rented and each employee shall be provided in addition to the parking required for single-family occupancy.
6. Service shall be limited to the rental of rooms and the provision of breakfast for overnight guests. No food preparation or cooking guests shall be conducted within any bedroom made available for rent.
7. Signs shall be limited to one on-premise sign not to exceed two square feet.

~~YX.~~ Accessory uses shall be permitted for horticultural uses provided the buildings to house said use do not exceed 10% of the net are (or 8,000 square feet whichever is less) of the lot that the primary horticulture use is located. Such accessory uses include: offices, storage (subject to 30.48.040h regulations), packing, assemblage, distribution, maintenance, related grading (soil mixtures), and the like. (Ord. 88-06 adopted 2-24-88.)

ZY. Other Necessary and Customary Uses. Accessory uses and structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to principal use, as determined by the Director.

Section 30.48.040W has been deleted since there is a process to "apply" for a Variance, which is outlined in Chapter 30.78.

## CHAPTER 30.48 – ACCESSORY USE REGULATIONS

### Section 30.48.40

#### 30.48.040K.

- K. Guest House. A guest house is permitted only as follows: (Ord. 94-11)
1. In any residential zone, one detached guest house is permitted on a lot or building site which has an area of not less than 10,000 square feet. Guest houses are not permitted in other zones.
  2. The guest house shall have a maximum floor area of 640 square feet, and shall meet the main building setbacks for the residential zone in which the site is located. Guest houses exceeding 640 square feet are permitted upon issuance of a minor use permit. A guest house maintaining building setbacks for detached accessory structures, in conformance with Section 30.16.010E of the Municipal Code, are permitted upon issuance of a minor use permit. A guest house which does not meet setbacks for either main buildings or detached accessory structures is prohibited unless findings for a variance pursuant to Chapter 30.78 are made and a setback reduction variance is granted.
  3. No kitchen facilities or laundry facilities are allowed within the guest house.
  4. The guest house shall only be occupied on a temporary basis (no more than 30 consecutive days) and shall not be rented or otherwise used as a separate dwelling.

5. Prior to issuance of a building permit for a guest house the owner shall submit a notarized recorded copy of an agreement between the owner and the City of Encinitas on a form supplied by the Planning and Building Department ~~Department of Community Development~~. Said agreement shall state that the owner understands and declares that the guest house is only to be occupied on a temporary basis (no more than 30 consecutive days) and will not be rented or otherwise used as a separate dwelling. The agreement shall also include provisions stating that the owner consents to inspection of the premises by the code enforcement officer in order to verify the terms of the agreement.

Section 30.48.040K has been amended to correct the name of the City department and to further clarify that a guest house shall not function as a separate dwelling by prohibiting laundry facilities. The amendment also includes the Planning Commission's direction from their December 18, 2014 meeting whereby removing the word "wetbars" from Section 30.48.040K3 above.

### Section 30.48.060

#### 30.48.060

30.48.060 ~~Manufacturing and the Light~~ Industrial Zone. Single-family dwellings or a single mobilehome limited to 750 square feet or 30% of the floor area of the principal structure(s) on the property, whichever is less, with a minimum of 400 square feet allowed by right (additional floor area over 750 square feet or 30% of the floor area of the principal structure may be allowed with the approval of a Minor Use Permit) shall be permitted as follows in the Light Industrial Zones subject to the following: (Ord. 97-17)

Section 30.48.060 applies to "Manufacturing and Industrial Zones"; however, the City only has a "Light Industrial Zone". Section 30.48.060 has been amended to only reference a "Light Industrial Zone".

**30.48.060A** Caretaker or Superintendent. On a lot or building site with a permitted industrial use, and occupied exclusively by a caretaker or superintendent (and family) of such industrial use~~;~~ or ~~(...)~~ (Ord. 97-17).

Section 30.48.060A has been amended to remove typo from a previous amendment (Ord. 97-17).

### Section 30.48.070

#### 30.48.070

30.48.070 Retail Sales in ~~the Manufacturing and Light~~ Industrial Zones. Retail sales as an accessory use is permitted in ~~the manufacturing and Light~~ Industrial Zones when the product sold is produced on the site.

Section 30.48.070 applies to "Manufacturing and Industrial Zones"; however, the City only has "Light Industrial Zones". Section 30.48.070 has been amended to only reference a "Light Industrial Zone".

## **CHAPTER 30.54 – OFF-STREET PARKING**

### Section 30.54.030

#### 30.54.030A

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Commercial Stables.	1 space for every 5 horses boarded at site.
Youth center.	1 space for each 200 sq.ft. of gross floor area. (swimming pool <u>water area</u> shall not be counted as floor <u>Space area</u> )
Parks	Parking Study Required

Section 30.54.030A has been amended to reflect the accurate term, which is “floor area”.

**30.54.030B**

B. Handicapped accessible parking space requirements shall count toward fulfillment of all automobile parking requirements established by this Chapter. Handicapped accessible parking requirements are established by the State of California and shall be in accordance with California Title 24 Accessibility Guidelines. ~~the table below reflects the current requirements which may need to be modified when the State adjusts its standards:~~

Residential

~~Dwelling unit designed for handicapped occupancy ————— 1 handicapped space per dwelling unit~~

All Uses Other Than Residential (Ord. 97-17)

~~Number of Automobile Spaces Provided ————— # of Handicapped Spaces Required~~

<del>1 — 25</del>	<del>1*</del>
<del>26 — 50</del>	<del>2</del>
<del>51 — 75</del>	<del>3</del>
<del>76 — 100</del>	<del>4</del>
<del>101 — 150</del>	<del>5</del>
<del>151 — 200</del>	<del>6</del>
<del>201 — 300</del>	<del>7</del>
<del>301 — 400</del>	<del>8</del>
<del>401 — 500</del>	<del>9</del>
<del>501 — 1000</del>	<del>2% of total</del>
<del>1001 — and over</del>	<del>20 plus 1 for each 100 over 1000</del>

~~\*When only one handicap space is required, the space must be “van accessible” as defined in California Title 24 Accessibility Guidelines.~~

Section 30.54.030B has been amended to update terminology and remove outdated table and reference California Title 24 Accessibility Guidelines for handicap accessible parking requirements.

**CHAPTER 30.56 – RECYCLING FACILITIES**

**Section 30.56.030**

**30.56.030L4**

4. One parking space will be provided for each commercial vehicle operated by the processing facility. Parking standards will otherwise be as mandated by ~~the zone in Chapter 30.54 (Off-Street Parking)~~ for all uses on the site on which the facility is located.

Section 30.56.030L4 notes that parking standards are mandated by the zone, which is incorrect. Staff has amended this section to correctly note that parking standards are mandated by the use as outlined in Chapter 30.54 (Off-Street Parking).

**CHAPTER 30.60 – SIGNS**

**Section 30.60.070**

**30.60.070H**

H. ~~One i~~Identification signs shall be permitted up to a maximum aggregate area for all signs of 32 square feet identifying a residential development of 5 or more units or non residential uses authorized in residential zones. Said signs

may be located on each entry street frontage affording primary vehicular access to the site and shall be integrated into an approved landscape plan and shall have a maximum height of six feet. Two signs may be permitted, one on each side of the road, at the project entrance as long as the aggregate total does not exceed the allowed maximum of 32 square feet.

Section 30.60.70H has been amended to allow for more than one sign at the entry of a residential development provide the signs do not exceed the existing 32 square foot limit.

### **Section 30.60.100**

#### **30.60.100C2**

2. Area. The area of a freestanding sign shall not exceed 1 square foot for each linear foot of street frontage, provided the area does not exceed 175 square feet.

Eighteen inch high numbers shall be provided on the freestanding sign that clearly identify the address of the subject site and is located on the freestanding sign that provides maximum visibility. The color of the numbers shall contrast with the background color of the sign. The sign area utilized for the project address shall be in addition to the sign area for the freestanding sign. (Ord. 91-12)

Section 30.60.100C2 has been amended to be consistent with Fire Department standards.

### **Section 30.60.130**

#### **30.60.130A**

A. An application to construct a sign shall be submitted to the Planning and Building Department together with the applicable processing fee ~~calculated in accordance with a resolution of the City Council.~~ The Community Development Planning and Building Department shall consider the standards established in the City's Design Guidelines Design Review Section 23.08.078 when evaluating sign permit requests. The following signs shall require approval from the Planning and Building Director: (Ord. 2003-08).

- All permanent nonresidential signs unless exempt under Section 30.60.060.
- All permanent residential signs greater than 5 sq. ft. unless exempt under Section 30.60.060.
- All temporary signs exceeding 4 square feet. (Ord. 97-17).

Section 30.60.130 has been amended to correctly reference the City's Design Guidelines.

## **CHAPTER 30.72 – ZONING AMENDMENTS**

### **Section 30.72.030**

**30.72.030** Application for Amendment.

A. Pre-Application Conference. Prior to submitting an application for a Zoning Amendment, a prospective applicant shall consult with the Planning and Building Department to obtain information and to inform the Department of the applicant's intentions.

B. A property owner or the owner's authorized agent who wishes to propose a change in the boundaries of the zone in which a property is located, may file an application for amending boundaries with the Director of Planning and Building. The specific submittal requirements for the application will be prescribed in writing by the Director and will be

provided to the applicant upon request. The Director may require any additional information that may be necessary to enable the decision-makers to determine whether the proposed change is consistent with the General Plan and the purposes of the Zoning Code and Local Coastal Program. The submittal requirements shall include all information necessary to complete environmental review of the proposed project in accordance with State and local guidelines for the implementation of the California Environmental Quality Act. (Ord. 2003-08).

Section 30.72.030 has been amended to include a Pre-application Conference prior to submittal of an application for a Zoning Amendment.

## **CHAPTER 30.74 – USE PERMIT**

### **Section 30.74.010**

#### **30.74.010C**

C. For the purpose of this Chapter, "Use Permit" shall mean a ~~planned development permit~~, conditional use permit (major), ~~or~~ conditional use permit (minor) ~~or coastal use permit~~.

Section 30.74.010C has been amended to remove the terms "Coastal Use Permit" and "Planned Development Permit", which are no longer used and incorrect when referring to a "Conditional Use Permit". The City does use the term "Coastal Development Permit", which is outlined in Chapter 30.80 of the EMC.

### **Section 30.74.040**

#### **30.74.040B1**

1. That requires a ~~Use Permit designated as a Plan Development Permit~~, Major Use Permit ~~or Coastal Use Permit~~; and ~~(Ord. 96-07)~~

Section 30.74.040B1 has been amended to remove the terms "Planned Development Permit" and "Coastal Use Permit", which is no longer used. The City does use the term "Coastal Development Permit", which is outlined in Chapter 30.80 of the EMC.

### **Section 30.74.050**

#### **30.74.050C**

A. If the Director is authorized to render a final determination, the notice shall indicate the time prior to which written objections must be filed. (Ord. 92-15)

B. An application for a Use Permit for a project which requires an application for a tentative map, zone change, ~~conditional use permit~~ or any other discretionary planning permit, shall be noticed as part of the noticing procedures required by the Code for such other applications. (Ord. 92-15)

~~C. The Applicant shall file a declaration of service by mail, under penalty of perjury, which contains a copy of the notice sent, the date on which the notice was deposited in the U.S. mail and the names and addresses of the addressees. (Ord. 92-15)~~

~~DC.~~ If the date, time and place of a subsequent hearing or a continued hearing is announced at the noticed time and place, no additional notice is required for the second or continued hearing, unless required by law. If no such announcement is made at the noticed time and place, the second or continued hearing shall be noticed in accordance with Chapter 30.01 as modified by this section. (Ord. 92-15)

Section 30.74.050B has been amend to remove “conditional use permit”, which should not be included in the sentence and C addresses noticing requirements for Use Permits and requires that the applicant for a Use Permit file a declaration of service by mail which contains a copy of the notices sent; however, the City mails out the notices. This section is not consistent with current City practice and has been deleted.

### **Section 30.74.060**

#### **30.74.060**30.74.060 Procedure.

A. Pre-Application Conference. Prior to submitting an application for a Use Permit, a prospective applicant shall consult with the Planning and Building Department to obtain information and to inform the Department of the applicant’s intentions.

A.B. The owner, or the owner’s authorized agent, of the real property on which the construction activity is proposed shall make application for a Use Permit to the Director on a form approved by the Director. To be received, the application must be accompanied by a filing fee in an amount set, from time to time, by resolution of the City Council, together with whatever additional plans and information the Director deems necessary to accomplish the purposes of this Chapter. The application shall include plans, maps and displays in sufficient detail to explain the proposed project’s compliance with the regulations contained in this Chapter. (Ord. 96-07)

B.C. The Director shall provide to the applicant the dates, times and places for consideration of the application and place the matter on the agenda of the authorized body. ~~The applicant shall complete the noticing and file a declaration of notice by mail with the Director.~~

~~C. When the application has been received and properly noticed, the Director shall place the matter on the agenda of the authorized body. (Ord. 96-07)~~

D. The Director is authorized to approve, disapprove, or conditionally approve an application for a Minor Use permit in accordance with the provisions of this Chapter. When authorized to render a final determination, the Director shall hold a public hearing and make a decision; or refer the application to the Planning Commission. (Ord. 96-07)

E. If the Planning Commission is required to make an advisory recommendation or render a final determination on the application or render a final determination on the application for a Use Permit, the Director shall submit the matter to the Planning Commission at a noticed, public hearing. (Ord. 96-07)

F. Following the close of public hearing, the Planning Commission may, by majority vote, in accordance with the provisions of this Chapter, approve, disapprove, conditionally approve, or continue the consideration of the application. If the Planning Commission has advisory jurisdiction, the Planning Commission will render an advisory recommendation to the City Council. (Ord. 96-07)

G. Upon receipt of the advisory recommendation from the Planning Commission, the Director shall set the application for Use Permit as a noticed, public hearing for the next available meeting of the City Council. Following the close of public hearing, the City Council may, by majority vote, in accordance with the provisions of this Chapter, approve, disapprove, or conditionally approve, or continue the consideration of the application. (Ord. 96-07)

Section 30.74.060 has been amended to include a Pre-application Conference prior to submittal of an application for a Use Permit. This section also requires the applicant to complete the noticing and file a declaration of notice by mail with the Director; however, the City mails out the notices. This section is not consistent with current City practice and has been deleted.

## **Section 30.74.130**

### **30.74.130B**

B. The suspension of the Use Permit and the suspension of all related permits shall be lifted by the Director if:  
~~06-96~~

1. The applicant has completed all necessary changes to bring the project into compliance with the original Use Permit, or with the Use Permit as amended by an appeal or modification; or
2. The final appeals body has determined that no violation of the original Use Permit exists.

Section 30.74.130B has been amended to remove "06-96", which is part of the header of Chapter 30.74 and was misplaced when converting the Encinitas Municipal Code to an online format.

## **CHAPTER 30.78 – VARIANCES**

### **Section 30.78.020**

#### **30.78.020B**

B. Except as otherwise provided in this Chapter, the Planning Commission is authorized to render a final determination on an application for a variance, ~~for a project~~ (Ord. 96-07)

Section 30.74.020B has been amended to clarify the sentence.

## **CHAPTER 30.80 – COASTAL DEVELOPMENT PERMIT**

### **Section 30.80.020**

#### **30.80.020B**

B. Except as otherwise provided in this Chapter, the Planning Commission is authorized to render a final determination for Coastal Development Permits on the following application types: (Ord. 96-07)

1. Major Use Permits
2. Tentative Maps
- ~~13~~ Design Review Permits not under the authority of the Director under Section 'A' above.
- ~~24~~ Variance (Major)
- ~~35~~ Items referred by the Planning and Building Director (Ord. 2003-08)
- ~~46~~ Other applications and duties as required by this code.

Section 30.80.020B has been amended to be consistent with Section 30.80.020A whereby including Major Use Permits and Tentative Maps as applications that the Planning Commission is the decision making body.

## **CHAPTER 30.82 – LOCAL COASTAL PROGRAM AMENDMENTS**

### **Section 30.82.030**

#### **30.82.030A**

A. Pre-Application Conference. Prior to submitting an application for an Amendment to the Local Coastal Program, a prospective applicant shall consult with the Planning and Building Department to obtain information and to inform the Department of the applicant's intentions.

**AB.** Submittal of an amendment to the City of Encinitas certified LCP shall be made by resolution of the City Council, adopted by the City and submitted to the Coastal Commission in accordance with the provisions of Section 13551 of the California Code of Regulations. The proposed amendment may be submitted either (1) as an amendment that will take effect automatically upon approval of the Coastal Commission, or (2) as an amendment that will require formal adoption by the City Council after Coastal Commission approval. (Ord. 94-06)

**BC.** The content of a proposed LCP amendment application shall conform to the requirements of the California Coastal Commission Administrative Regulations Section 13552. (Ord. 94-06)

Section 30.82.030 has been amended to include a Pre-application Conference prior to submittal of an application for a Local Coastal Program Amendment.

## SPECIFIC PLAN CODE AMENDMENTS

The proposed Specific Plan Amendments affect permitted uses within each plan whereby including newer use types or removing where appropriate. The proposed amendments are identical to those being proposed for Chapter 30.09 Zoning Use Matrix. In addition, an amendment to the Encinitas Ranch Specific Plan Section 6.5.3 affecting development standards is included.

### CARDIFF-BY-THE-SEA SPECIFIC PLAN

<b>Chapter 3.0</b>	<b>Use and Development Regulations</b>
Table 3-1	Cardiff Specific Plan Zoning Matrix – Use Comparison

### DOWNTOWN ENCINITAS SPECIFIC PLAN

<b>Chapter 3.0</b>	<b>Use and Development Regulations</b>
3.2.1	Residential Zones
3.2.2	Commercial Zones
3.2.3	Mixed Use Zones

### ENCINITAS RANCH SPECIFIC PLAN

<b>Chapter 6.0</b>	<b>Encinitas Ranch Zoning Ordinance</b>
6.5	Single Family Residential Zone (“ER-SFR3”, “ER-SFR3V” & “ER-SFR5”)
6.6	Mixed Use Zone (“ER-MU1” Zone)
6.7	Mixed Use Zone (“ER-MU2” Zone)
6.8	Commercial Zone (“ER-C” Zone)
6.5.3	Development Standards

### NORTH 101 CORRIDOR SPECIFIC PLAN

<b>Chapter 3.0</b>	<b>Use and Development Regulations</b>
3.1.2A	Commercial Mixed 1 (N-CM-1)
3.1.2B	Commercial Mixed 2 (N-CM-2)
3.1.2C	Commercial Mixed 3 (N-CM-3)
3.1.2D	Commercial Residential Mixed 1 (N-CRM-1)
3.1.2E	Commercial Residential Mixed 2 (N-CRM-2)

<b>EXHIBIT NO. 3</b>
<b>Specific Plan Amendments</b>
LCP-6-ENC-15-0023-1 Zoning Clean Up California Coastal Commission

## CARDIFF-BY-THE-SEA SPECIFIC PLAN CODE AMENDMENTS

### Chapter 3.0 Use and Development Regulations

Cardiff-by-the-Sea Specific Plan Zoning Matrix – Use Comparison (Table 3-1)

Use	C-R-11	C-OP	C-GC-1	C-GC-2	Notes
<u>Acupuncture</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Alcoholic Beverage, Sales-off premise (Ord. 91-03)					
Catering Services					
<u>Chiropractor</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Church/Temple/Religious Institution					
Costume Rentals					
<u>Cottage Food Operations</u>	<u>P*</u>	<u>X</u>	<u>X</u>	<u>P*</u>	<u>* Accessory to a residential use per EMC 30.48.040L.</u>
Courts, Commercial (Badminton, Tennis, Racquetball, Others)					
<u>Dance Studio (yoga or similar group exercise)</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>P</u>	
Delicatessen	X	A	P	P	
Dental Clinic	X	P*	P*	P*	<u>* Includes Dental Clinic, Canine/Feline</u>
Dressmaking Shop	X	X	P	P	
<u>Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class)</u>	<u>X</u>	<u>Cm</u>	<u>P</u>	<u>P</u>	
Group Residential (Ord. 2005-03)					
Transient Habitation (Ord. 91-03)					
<u>Tutoring Center</u>	<u>X</u>	<u>Cm</u>	<u>Cm</u>	<u>Cm</u>	
Utility Lines-Sewer, Gas, Petroleum, Telephone, Elec.					

# DOWNTOWN ENCINITAS SPECIFIC PLAN CODE AMENDMENTS

## Chapter 3.0 Use and Development Regulations

### Section 3.2.1 Residential Zones

#### A. Zone: Residential 11 (D-R11)

##### 1. Permitted Uses:

###### Cottage Food Operations

Dwelling Unit, One-Family

#### B. Zone: Residential 15 (D-R15)

##### 1. Permitted Uses:

###### Cottage Food Operations

Dwelling Unit, One-Family

#### C. Zone: Residential 25 (D-R25)

##### 1. Permitted Uses:

###### Cottage Food Operations

Dwelling Unit, One-Family

Dwelling Unit, Two-Family

### 3.2.2 Commercial Zones

#### A. Zone: Office Professional (D-OP)

##### 1. Permitted Uses:

Art Gallery

###### Acupuncture

Bank/Savings and Loan

Blueprinting and Photostatting

###### Chiropractor

Conservatory of Music

Dental Clinic

###### Dental Clinic, Canine/Feline

Educational Institution, Public

##### 2. Minor Use Permits:

Museum

###### Tutoring Center

##### 3. Major Use Permits:

Club, Private

###### Dance Studio

###### Group Exercise<sup>1</sup>

Hospital

<sup>1</sup> Including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class.

#### B. Zone: Visitor-Serving Commercial (D-VSC)

##### 1. Permitted Uses:

###### Acupuncture<sup>1</sup>

Art Gallery<sup>1</sup>

Book Sales<sup>1</sup>

Chiropractor<sup>1</sup>

Dwelling Unit, Caretaker - accessory to the principal use

Educational Institution, Public<sup>1</sup>

Gift Shop<sup>1</sup>

Group Exercise<sup>1,2</sup>

Medical/Dental Office<sup>1</sup>

<sup>2</sup> Including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class.

### Section 3.2.3 Mixed Use Zones

#### A. Zone: Commercial Mixed - First Street (D-CM-1)

##### 1. Permitted Uses:

	Prohibited in a storefront location
<u>Acupuncture</u>	X
Alcoholic Beverage Sales off premise (Ord. 91-03)	
Cellular Facility (Ord. 91-03; subject to EMC 9.70)	
<u>Chiropractor</u>	X
Clothing Rental	
Costume Rentals	
<u>Cottage Food Operations</u> <sup>3</sup>	
Dairy Store	
<u>Dance Studio</u>	
Dental Clinic	X
<u>Dental Clinic, Canine/Feline</u>	X
Dressmaking Shop/Alterations	
Glass Studio (Stained and others)	
<u>Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class)</u>	
Hair Studio (Ord. 91-03)	
Wearing Apparel Shop	
<u>Yoga, Pilates, Martial Arts or Similar Group Exercise Class</u>	

<sup>1</sup> Permitted in conjunction with a permitted commercial or office use. Dwelling units may not exceed 50% of the gross developed floor area for this development site.

<sup>2</sup> Total gross floor area greater than 20,000 square feet shall require a major use permit.

<sup>3</sup> Accessory to a residential use per EMC 30.48.040L.

##### 2. Minor Use Permits:

	Prohibited in a storefront location
Swap meet/Outdoor Sales (Ord. 91-03)	
<u>Tutoring Center</u>	X

X – Prohibited in a storefront location; Permitted above and/or behind primary commercial use in a non-storefront location. Ground floor uses in storefront locations shall be limited to "retail only" and/or business that serve patrons on an unannounced or drop-in basis. See First Floor Retail Standards, Section 3.2.3.A (4)(n).

**B. Zone: Commercial Mixed - Second Street (D-CM-2)**

**1. Permitted Uses:**

Acupuncture

Antique Sales, Retail

Cellular Facility (Ord. 91-03)

Chiropractor

Clothing Rental

Costume Rental

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Dairy Store

~~Dance Studio~~

Dental Clinic

Dental Clinic, Canine/Feline

Dressmaking Shop/Alterations, Retail

Glass Studio (Stained or others)

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class)

Hair Salon (Ord. 91-03)

Wearing Apparel Shop

~~Yoga, Pilates, Martial Arts or Similar group Exercise Class~~

**2. Minor Use Permits:**

Tile Sales

Tutoring Center

Upholstery

**D. Zone: Office Mixed (D-OM)**

**1. Permitted Uses:**

Acupuncture

Chiropractor

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Day Care Center (more than 6 children/clients)

**2. Minor Use Permits:**

~~Dance Studio~~

Fire Station

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class)

Nurseries, Horticultural

Tutoring Center

## ENCINITAS RANCH SPECIFIC PLAN CODE AMENDMENTS

### 6.5 SINGLE FAMILY RESIDENTIAL ZONES (“ER-SFR3,” “ER-SFR3V” & “ER-SFR5” ZONES)

#### 6.5.2 USES PERMITTED

- A. *Permitted Uses.* The following uses shall be permitted in all Single Family Residential Zones (“ER-SFR3,” “ERSFR3V” and “ER-SFR5” Zones) located within the Encinitas Ranch Specific Plan Area. *List amended 3/18/98 (Reso. 98-17)*

Accessory buildings and uses.

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

(Existing) Agricultural facilities.

### 6.6 MIXED USE ZONE (“ER-MU1” ZONE)

#### 6.6.1 USES PERMITTED

- A. *Permitted Uses.* The following uses shall be permitted in the “ER-MU1” Mixed-Use Zone in the Encinitas Ranch Specific Plan Area. All uses, except for agriculture-related uses and those exceptions noted below, shall be located within an enclosed building unless authorized by a Minor Use Permit. *List amended 3/18/98 (Reso. 98-17)*

Acupuncture.

Administrative and professional offices, including but not limited to business, law, architectural, engineering, and community planning offices, in which no activity is carried on catering to retail sales and no stock of goods is maintained for sale.

Agricultural facilities as provided in Section 6.1 of this zoning ordinance.

Charitable bins and depositories.

Chiropractor.

Churches, synagogues, and other similar religious structures and facilities including incidental uses such as assembly, work rooms, living quarters of a priest, minister or family, and day care and educational facilities on properties designated as C/S on the Zoning Map.

Cosmetic design studio.

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Cutlery sales.

Dairy Store.

~~Dance Studio.~~

Day-care center.

Dental clinic and offices.

Dental clinic, canine/feline.

Dressmaking shop.

Gift Shop.

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).

Hair Salon.

B. *Minor Use Permit.* The following uses are permitted provided a Minor Use Permit has been granted pursuant to the Municipal Code. List amended 3/18/98 (Reso. 98-17)

Agricultural facilities as provided in Section 6.1 of this zoning ordinance.

Tutoring Center.

## 6.7 MIXED-USE ZONE (“ER-MU2” ZONE)

### 6.7.1 USES PERMITTED

The following uses shall be permitted in the “ER-MU2” zone located within the West Saxony Planning Area of the Encinitas Ranch Specific Plan. No more than 25,000 square feet of gross leasable floor area shall be developed in the West Saxony Planning Area. Limited retail sales uses (not exceeding an aggregate of 5,000 square feet) are permitted in the West Saxony Planning Area. *Paragraph amended 3/18/98 (Reso. 98-17)*

USE	WEST SAXONY <sup>(1)</sup>
<u>Acupuncture.</u>	<u>P<sup>(2)</sup></u>
Administrative and professional offices, including but not limited to business, law, architectural, engineering, and community planning offices, in which no activity is carried on catering to retail sales and no stock of goods is maintained for sale.	P
Barber and beauty shop (Cosmetology).	C
<u>Chiropractor.</u>	<u>P<sup>(2)</sup></u>
Churches, synagogues and other similar religious structures and facilities including incidental uses such as assembly, work rooms, living quarters of a priest, minister or family, and day care and educational facilities.	P
Conservatory of music.	P
<u>Cottage Food Operation<sup>3</sup></u>	<u>P</u>
<del>Dance Studio.</del>	<del>P</del>
Dental clinic and offices.	P <sup>(2)</sup>
<u>Dental clinic, canine/feline</u>	<u>P<sup>(2)</sup></u>
Dressmaking shop.	C
Florist shop.	
<u>Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).</u>	<u>P</u>
Theater, performing arts.	

USE	WEST SAXONY <sup>(1)</sup>
<u>Tutoring Center.</u>	<u>Cm</u>

- (1) Limited retail sales uses (not exceeding an aggregate of 5,000 square feet) are permitted in the West Saxony Planning Area.  
(2) In no case shall the combination of all square footage of dental and medical offices and clinics exceed 25,000 square feet in West Saxony Planning Area.  
(3) Accessory to a residential use per EMC 30.48.040L.

**6.8 COMMERCIAL ZONE (“ER-C” ZONE)** *Paragraph amended 3/18/98 (Reso. 98-17)*

**6.8.1 USES PERMITTED** *Paragraph amended 3/18/98 (Reso. 98-17) and 2/13/02 (Ord. 2002-02)*

A. *Permitted Uses.* The following uses shall be permitted in all Commercial Zones (“ER-C” Zones) in the Encinitas Ranch Specific Plan Area. All uses, except for agriculture-related uses and those exceptions specifically noted below, shall be located within an enclosed building unless authorized by a Minor Use Permit.

- Acupuncture.  
Adult businesses.\*
- Charitable bins and depositories.
- Chiropractor.  
Clothing and costumes, sales and rental.
- Dairy Store.
- ~~Dance Studio.~~  
Day care center.
- Dental clinic and offices.  
Dental clinic, canine/feline.  
Department store.
- Glass studio (stained or others).  
Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).  
Gymnasium, health club (public or private).

B. *Minor Use Permit.* The following uses are permitted in “ER-C” Zones, provided a Minor Use Permit has been granted pursuant to the Municipal Code. *List amended 3/18/98 (Reso. 98-17)*

- Truck sales.
- Tutoring Center.  
Upholstery installation.

**6.5.3 DEVELOPMENT STANDARDS**

B. *Specific Single Family Residential Zone Standards:*

SPECIFIC SINGLE-FAMILY RESIDENTIAL ZONE STANDARDS	ER-SFR3V ZONE 8,000 SF MIN	ER-SFR3V ZONE 6,000 SF MIN	ER-SFR3V ZONE 5,000 SF MIN
Maximum Encroachments into Yards <sup>(3)</sup>	4 FT for all yards	4 FT for all yards	4 FT for all yards <sup>(3)</sup>

Table added 3/18/98 (Reso. 98-17)

- <sup>(3)</sup> Includes encroachments by chimneys, fireplaces, media niches, steps, stairs, eaves, porches, balconies, decks, bay windows, planters, and similar architectural features, however a 5 ft. minimum side yard setback shall be maintained, except lots less than 6,000 square feet may have a maximum encroachment into the 5 ft. interior side yard setback of 2 ft. for chimneys, fireplaces, eaves, bay windows, and media niches.

SPECIFIC SINGLE-FAMILY RESIDENTIAL ZONE STANDARDS	ER-SFR5 ZONE
Maximum Encroachments into Yards <sup>(3)</sup>	4 FT for all yards <sup>(3)</sup>

Table added 3/18/98 (Reso. 98-17)

- <sup>(3)</sup> Includes encroachments by chimneys, fireplaces, media niches, steps, stairs, eaves, porches, balconies, decks, bay windows, planters, and similar architectural features, however, a 5 ft. minimum interior side yard setback shall be maintained, except a maximum encroachment into side yards of 2 ft. for chimneys, fireplaces, eaves, bay windows, and media niches shall be allowed.

Section 6.5.2 Development Standards for the "ER-SFR3V" and "ER-SFR5" Zones has been amended to be consistent with current City practice outside the Encinitas Ranch Specific Plan, which allows for eaves and bay windows to encroach a maximum of 2 feet into the required side yard setbacks.

# NORTH 101 CORRIDOR SPECIFIC PLAN CODE AMENDMENTS

## Chapter 3 Use and Development Regulations.

### 3.1.2A Commercial Mixed 1 (N-CM-1)

#### 1. Permitted Uses:

Accessory Building

Acupuncture

Antique Sales, Retail

Charitable Bins and Depositories (accessory)

Chiropractor

Clothing Rental

Costume Rentals

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Dairy Store

Dental Clinic

Dental Clinic, Canine/Feline

Dressmaking Shop

Dance Hall

Dance Studio

Delicatessen

Grocery Store

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).

Hair Salon

#### 2. Minor Use Permits:

Small Animal Hospital/Kennel

Tutoring

Video Production Studio

### 3.1.2B Commercial Mixed 2 (N-CM-2)

#### 1. Permitted Uses:

Accessory Building

Acupuncture

Antique Sales, Retail

Charitable Bins and Depositories (accessory)

Chiropractor

Clothing Rental

Costume Rentals

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Dairy Store

Dental Clinic

Dental Clinic, Canine/Feline

Dressmaking Shop

Dance Hall

Dance Studio

Delicatessen

Grocery Store

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).

Hair Salon

**2. Minor Use Permits:**

Truck Sales

Tutoring

Video Production Studio

**3.1.2C Commercial Mixed 3 (N-CM-3)**

**1. Permitted Uses:**

Accessory Building

Acupuncture

Alcoholic Beverage, Sales - off premise

Charitable Bins and Depositories (accessory)

Chiropractor

Clothing Rental

Costume Rentals

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Dance Hall

~~Dance Studio~~

Delicatessen

Grocery Store

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).

Hair Salon

**2. Minor Use Permits:**

Restaurant with alcohol sales (outdoor dining permitted by design review)<sup>2</sup>

Tutoring

Video Production Studio

**3.1.2D Commercial Residential Mixed 1 (N-CRM-1)**

**1. Permitted Uses:**

Accessory Building

Acupuncture

Antique Sales, Retail

Charitable Bins and Depositories (accessory)

Chiropractor

Clothing Rental

Costume Rentals

Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)

Dairy Store

Dental Clinic

Dental Clinic, Canine/Feline

Dressmaking Shop

Dance Hall

~~Dance Studio~~

Delicatessen

Grocery Store

Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).  
Hair Salon

**2. Minor Use Permits:**

Small Animal Hospital/Kennel  
Tutoring  
Video Production Studio

**3.1.2E Commercial Residential Mixed 2 (N-CRM-2)**

**1. Permitted Uses:**

Accessory Building  
Acupuncture  
Antique Sales, Retail

Charitable Bins and Depositories (accessory)  
Chiropractor  
Clothing Rental

Costume Rentals  
Cottage Food Operations (accessory to a residential use per EMC 30.48.040L.)  
Dairy Store

Dairy Store  
~~Dance Studio~~  
Delicatessen

Glass Studio (Stained and Others)  
Group Exercise (including but not limited to dance studio, yoga, martial arts, Pilates or other similar group exercise class).  
Hair Salon

**2. Minor Use Permits:**

Restaurant (with alcohol sales) <sup>1</sup>  
Tutoring  
Video Production Studio