

CALIFORNIA COASTAL COMMISSION

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



July 21, 2016

Th15a

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO DISTRICT
GABRIEL BUHR, LCP PROGRAM MANAGER, SAN DIEGO DISTRICT
ERIC STEVENS, COASTAL ANALYST, SAN DIEGO DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF ENCINITAS LOCAL
COASTAL PROGRAM AMENDMENT NO. LCP-6-ENC-16-0032-1 (Urban
Agriculture) for Commission Meeting of August 10-12, 2016**

SYNOPSIS

The City of Encinitas' Local Coastal Program (LCP) Amendment request No. LCP-6-ENC-16-0032-1 involves an amendment to the City's certified Implementation Plan (IP) to add a new Chapter 30.33 (Urban Agriculture) and make other amendments to the City's Municipal Code; and amendments to certain Specific Plans (Cardiff-by-the-Sea, Downtown Encinitas, Encinitas Ranch and North 101 Corridor) to make reference to the new Chapter 30.33 of the City's Municipal Code.

The subject request was submitted and filed as complete in the San Diego District Office on June 13, 2016. Since the amendment involves changes to land use, it does not qualify for a minor LCP amendment. The Commission must act upon amendments containing only IP components within 60 days of filing. There are no Land Use Plan amendments included herein.

SUMMARY OF AMENDMENT REQUEST

The City of Encinitas has submitted the subject implementation plan amendment in order to encourage and support more opportunities for urban agriculture; specifically, the amendment would establish small scale urban agricultural uses and create a simplified regulatory process. In addition, the amendment includes detailed regulations for community gardens and temporary roadside sales of agricultural products, and the amendment proposes changes to the City's Use Matrix to allow urban agricultural activities where they were not previously allowed.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission approve the amendment as submitted. The Commission may reject IP amendments only if the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. The proposed implementation plan amendments are consistent with the goals and policies of the Land Use Plan in that the amendments support the emphasis to maintain agricultural land uses, encourage sustainable practices, and improve greater local food security. The proposed amendments would broaden agricultural opportunities, promote small-scale urban agriculture, and remove or limit unnecessary regulations without jeopardizing the environment, public health, or animal welfare. Furthermore, the amendment would not affect the requirement to obtain a Coastal Development Permit (CDP) for non-exempt development in the Coastal Zone, and would not result in impacts to coastal resources.

The appropriate resolution and motion may be found on Page 3. The findings for approval of the IP Amendment as submitted begin on Page 4.

ADDITIONAL INFORMATION

Further information on the City of Encinitas' LCP Amendment No. LCP-6-ENC-16-0032-1 may be obtained from Eric Stevens, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

On November 17, 1994, the Commission approved, with suggested modifications, the City of Encinitas' LCP (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. The Commission has certified many amendments to the City's LCP since 1995.

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(s). 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 the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTION

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

- I. MOTION:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-ENC-16-0032-1 for the City of Encinitas 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 AMENDMENT
AS SUBMITTED**

The Commission hereby certifies the Implementation Program Amendment for the City of Encinitas 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 Encinitas LUP, 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 AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The City of Encinitas has submitted the subject citywide implementation plan amendment in order to authorize and provide clarification for expanded urban agricultural uses. Specifically, through the adoption of Ordinance 2015-08 on May 25, 2016, the City would add a new “Urban Agriculture” chapter to the municipal code and Implementation Plan (Chapter 30.33). The new chapter includes a streamlined permit process for “Agricultural Permits” with a simplified application, reduced cost to applicants, and a reduced noticing requirement; as compared to a Conditional Use Permit, which is currently required for many agricultural activities. The Director of Planning and Building is authorized to render final determinations on applications for agricultural permits, which decision may be appealed directly to the City Council. The proposed amendment also includes new or modified provisions for community gardens, farmers’ markets, aquaculture, roadside agricultural sales, animal enclosures, and beekeeping.

As proposed, for development in the Coastal Zone, an Agricultural Permit shall not be issued without a Coastal Development Permit. Furthermore, urban agriculture activities must comply with the policies of the City’s certified LCP, including steep slope protection, grading controls, stormwater quality, preservation of natural vegetation, and establishing buffers from sensitive habitat, wetlands and bluffs. The introduction of the new agricultural permit will not result in a change to the types of development that require issuance of a CDP. Chapter 30.80 regarding Coastal Development Permits details development that can be found exempt from CDP requirements. The City does not propose to make any changes to Chapter 30.80 with this LCPA.

The LCPA also updates various Specific Plans (Cardiff-by-the-Sea Specific Plan, Downtown Encinitas Specific Plan, Encinitas Ranch Specific Plan, and North 101 Corridor Specific Plan) to incorporate by reference the provisions of Chapter 30.33 (“Urban Agriculture”).

B. FINDINGS FOR APPROVAL

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

1) Purpose and Intent of the Ordinance.

The primary goal of the City's urban agriculture amendment is to accommodate new models of urban agriculture that increase access to healthy, local and sustainable food sources and support the expansion of community gardens and sales of agricultural products in the City.

2) Major Provisions of the Ordinance.

The major provisions of the proposed ordinance revisions are to introduce a new Urban Agriculture chapter to the City's municipal code and Implementation Plan with a streamlined permit process. The amendment would also propose new or modified provisions for community gardens, farmers' markets, aquaculture, roadside agricultural sales, animal enclosures, and beekeeping.

The Urban Agriculture chapter includes detailed regulations for community gardens. As proposed in the LCPA, hours of operation for community gardens shall be limited to the hours between sunrise and sunset. In addition, off-street parking is only required if adequate on-street parking is not available within 400 ft. of the garden. Furthermore, efficient irrigation techniques are encouraged.

The LCPA also updates the City's Use Matrix (Chapter 30.09) to allow community gardens in all zones, except for Limited Visitor Service Commercial (L-VSC) and Visitor Serving Commercial (VSC). The City also updated the Use Matrix to allow Farmers' Markets within all zones. However, in all zones aside from VSC and L-VSC zones, Farmers' Markets are allowed only on sites that have an existing church, school, or agricultural use.

Chapter 30.32 Ecological Resource/Open Space/Parks (ER/OS/PK) is being modified by this LCPA to allow community gardens in improved and unimproved park sites within the ER/OS/PK Zone that is outside of the Coastal Appeal Zone. As stated previously, the amendment includes language that urban agriculture activities must comply with the policies of the City's certified LCP, including steep slope protection, grading controls, stormwater quality, preservation of natural vegetation, and establishing buffers from sensitive habitat, wetlands and bluffs. Thus, community gardens in the ER/OS/PK Zone outside the Coastal Appeal Zone will not result in impacts to coastal resources. Aquaculture is already allowed within the ER/OS/PK zone, however, the LCPA clarifies that aquaculture operations must be land-based, not require intake or discharge from coastal waters, and be operated in way that protects the quality and biological productivity of adjacent waterways.

Chapter 30.48 regarding Accessory Uses already allows permanent “Roadside Sales of Agricultural Products” through the operation of a stand up to 200 sq. ft. in area to sell agricultural products produced on- and off-site. The chapter has been updated to also allow a “Temporary Food Stand” through the placement of non-permanent structures up to 120 sq. ft. for sale of agricultural products or cottage foods for up to 12 hours a week during daylight hours.

Chapter 30.55 Animal Regulations has been updated to allow beekeeping in all single-family residential zones, consistent with county-wide beekeeping regulations. This chapter has also been updated to require that animal enclosures (pens, coops, hutches, stables, barns, corrals, etc.) must maintain a 100 ft. buffer from wetlands and a 50 ft. buffer from riparian areas. Furthermore, language has been included to ensure that animals not contained in enclosures do not impact environmentally sensitive areas.

3) Conformance with the Certified Land Use Plan.

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s). In the case of the City of Encinitas, it has a fully certified LUP. The proposed implementation plan amendments would allow farmers’ markets, retail farms and community gardens in additional zones, provide separate regulations for the new urban agriculture uses and make some minor adjustments to the existing urban agriculture regulations. In general, urban agriculture enterprises and community gardens are being promoted as one element of sustainable living and supporting local food sources.

The following Resource Management LUP policies relate to agriculture and resource protection within the City:

Policy 2.1: In that the ocean water quality conditions are of utmost importance, the City shall aggressively pursue the elimination of all forms of potential unacceptable pollution that threatens marine and human health.

Policy 2.3: To minimize harmful pollutants from entering the ocean environment from lagoons, streams, storm drains and other waterways containing potential contaminants, the City shall mandate the reduction or the elimination of contaminants entering all such waterways...

Goal 10: The City will preserve the integrity, function, productivity, and long term viability of environmentally sensitive habitats throughout the City, including kelp-beds, ocean recreational areas, coastal water, beaches, lagoons and their up-lands, riparian areas, coastal strand areas, coastal sage scrub and coastal mixed chaparral habitats. (Coastal Act/30230/30231/30240)

RM Policy 10.1: The City will minimize development impacts on coastal mixed chaparral and coastal sage scrub environmentally sensitive habitats by preserving within the inland bluff and hillside systems, all native vegetation on natural slopes of 25 % grade and over other than manufactured slopes...

Policy 10.6: The City shall preserve and protect wetlands within the City's planning area...

Goal 11: The City recognizes the important contribution of agricultural and horticultural land uses in the local economy and the emphasis of the need to maintain these activities.

POLICY 11.8: Preserve and promote the produce unique horticultural crops and gardens in Encinitas.

Policy 14.1: The best strategy to reduce erosion and sedimentation is to reduce to the maximum extent feasible, grading and removal of vegetation. It is the policy of the City that, in any land use and development, grading and vegetation removal shall be limited to the minimum necessary. (Coastal Act/30240/30250)

The proposed implementation plan amendments are consistent with the goals and policies of the Land Use Plan in that the amendments support the emphasis to maintain agricultural land uses, encourage sustainable practices, and improve greater local food security. The proposed amendments would broaden agricultural opportunities, promote small-scale urban agriculture, and remove or limit unnecessary regulations without jeopardizing the environment, public health, and animal welfare. No changes are being proposed to any certified resource protection standards cited above and coastal development permits will still be required. As such, the Commission finds the amendment request can be found consistent with the certified land use plan and approved as submitted.

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

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for its review of an LCP or LCP amendment submittal.

At the local level, in connection with the revisions to its Municipal Code, the City determined that the subject LCP amendment is exempt from environmental review pursuant to CEQA Policies 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land). Section 15301 exempts the operation or minor alteration of existing public or private structures and facilities. Section 15303 exempts construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor

modifications are made in the exterior of the structure. Section 15304 exempts minor alterations in the condition of land, water, and/or vegetation and includes activities such as new gardening, grading, and minor temporary uses of land.

Nevertheless, the Commission is required in an LCP amendment submittal, such as in this case, to find that the approval of the proposed LCP, or LCP as amended, does conform to CEQA. In this particular case, the LCP amendment will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Further, the Commission finds that the proposed amendment is unlikely to have any significant adverse effect on the environment as a whole. Therefore, the Commission finds that the subject LCP IP amendment conforms to the provisions of CEQA.

ORDINANCE 2015-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 2 (ADMINISTRATION) AND TITLE 30 (ZONING) OF THE ENCINITAS MUNICIPAL CODE TO ADD CHAPTER 30.33 (URBAN AGRICULTURE) AND OTHER AMENDMENTS; AND AMENDMENTS TO THE CARDIFF-BY-THE-SEA, DOWNTOWN ENCINITAS, ENCINITAS RANCH AND NORTH 101 CORRIDOR SPECIFIC PLANS TO MAKE REFERENCE TO CHAPTER 30.33 OF THE ENCINITAS MUNICIPAL CODE

CASE NUMBER: 14-232 POD

WHEREAS, after conducting multiple Public Hearings, the Planning Commission conducted a final Public Hearing on March 31, 2016 for the purpose of considering amendments Title 30 (Zoning) of the Municipal Code to add Chapter 30.33 (Urban Agriculture) and other amendments; and amendments to the Cardiff-by-the-Sea, Downtown Encinitas, Encinitas Ranch and North 101 Corridor Specific Plans to make reference to Chapter 30.33 of the Encinitas Municipal Code; and considered public testimony and made a recommendation to the City Council to approve the amendments with suggested edits for the Council's consideration; and

WHEREAS, the City Council conducted a Public Hearing and introduced said Ordinance on May 11, 2016 for amendments to Title 2 (Administration) and Title 30 (Zoning) of the Encinitas Municipal Code and the Cardiff-by-the-Sea, Downtown Encinitas, Encinitas Ranch and North 101 Corridor Specific Plans Specific Plans; and

WHEREAS, the City Council finds the proposed text amendments are consistent with the purposes of the General Plan, Municipal Code, adopted Local Coastal Program, and other applicable City ordinances in that the amendments support the emphasis to maintain agricultural land uses, encourage sustainable practices and improve local food security; and

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

WHEREAS, notices of said Public Hearings were made at the time and in the manner required by law; and

WHEREAS, 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 August 7, 2015 through September 18, 2015; and

WHEREAS, the City Council finds that the amendments are consistent with the adopted Local Coastal Plan. 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.

| |
|---|
| EXHIBIT NO. 1 |
| Ordinance |
|  LCP-6-ENC-16-0032-1 Page 1 of 26 California Coastal Commission |

WHEREAS, the City Council finds that urban agriculture can provide multiple benefits to the community whereby connecting residents to the broader food system and building community; and

WHEREAS, urban agriculture contributes to the local economy by offering opportunities for resident entrepreneurship in creating food-related small-businesses and generating sales of locally grown food at farmers' markets, grocery stores, and on-site agricultural product stands; and

WHEREAS, to ensure the safety and well-being of the community, the Council seeks to create urban agriculture regulations that encourage sustainable practices, improve greater local food security and access to healthy food while at the same time protecting the environment, public health and animal welfare; and

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

SECTION ONE: ENCINITAS MUNICIPAL CODE

Chapter 30.33 is added to the Encinitas Municipal Code, to read as follows:

Chapter 30.33

URBAN AGRICULTURE

Sections:

- 30.33.010 PURPOSE**
- 30.33.020 GENERAL REQUIREMENTS**
- 30.33.030 COMMUNITY GARDEN**
- 30.33.040 AGRICULTURE PERMIT**

30.33.010 PURPOSE

- A. The purpose of this Chapter is to establish regulations for agricultural uses and to establish a simplified permit for all agricultural uses in this Title requiring a discretionary action.
- B. It is the intent of this Chapter to further the greater public interest in allowing urban agriculture, which can provide multiple benefits to the community. Urban agriculture connects residents to the broader food system, builds community, and offers local food access, education, and economic development potential. Urban agricultural also encourages sustainable practices that protect the environment, public health, and animal welfare.
- C. In addition to the regulations set forth in this Chapter, other chapters in the Municipal Code and each specific plan, identified in Chapter 30.84 (Specific Plans), have additional or separate regulations for agriculture.

30.33.020 GENERAL REQUIREMENTS

A. Urban agriculture activities shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including but not limited to, Certified Local Coastal Program, steep slope encroachment, grading, stormwater quality, clearing of natural vegetation, and buffers from sensitive habitat, wetlands and bluffs.

30.33.030 COMMUNITY GARDEN

A Community Garden is permitted with an Agriculture Permit in all zones except the L-VSC and VSC Zones and shall be subject to the following standards:

A. Limitations. A Community Garden is prohibited within the Coastal Appeal Zone of the ER/OS/PK Zone.

B. Hours of Operation. Hours of operation shall be limited to the hours between sunrise and sunset. No motorized equipment shall be used on-site before 7 A.M. nor after 7 P.M.

C. Parking. No parking is required if on-street parking is available within 400 feet.

D. Water Use. Potable water efficient irrigation techniques such as drip irrigation or micro-spray systems with timers to control watering times are encouraged. All hoses shall be equipped with a positive shut-off trigger nozzle. Mulching of planted areas is encouraged to retain plant moisture.

E. Composting. Composting as an accessory use may be performed onsite within a composting container subject to the following standards:

1. Composted materials shall be only those materials generated onsite or contributed by active members of the community garden.

2. Composting containers shall be as close as practicable to the center of the property and/or community garden.

F. The keeping of chickens (hens only, not roosters) at a community garden shall be permitted subject to the following provisions:

1. Number of chickens and location of enclosure for chickens at a community garden shall comply with requirements of Chapter 30.55 of the Encinitas Municipal Code.

2. Sales. A community garden that sells its produce to a retailer, shall not locate the planting areas down slope from the enclosure and animal waste may not be used to fertilize the community garden. The garden must be fertilized by commercial fertilizer.

30.33.040 AGRICULTURE PERMIT

A. Purpose. It is the purpose of this section to provide procedures for the review and, where necessary, the imposition of special conditions of approval on proposed projects which involve special site or design requirements, operating characteristics or potential adverse effects on the surrounding area.

B. Scope of Section. This Section applies to all projects which are required by the provisions of the Encinitas Municipal Code to obtain an Agriculture Permit.

C. Prohibitions.

1. Without first having obtained an Agriculture Permit, it shall be unlawful for any person to construct a project when such a project is required by the provisions of the Encinitas Municipal Code to obtain an Agriculture Permit.

2. No building permit or other development permits shall be issued relating to a project for which an Agriculture Permit is required by the provisions in the Encinitas Municipal Code until the Agriculture Permit is obtained.

3. In the Coastal Zone, an Agricultural Permit shall not be issued without a Coastal Development Permit.

D. Authority to Grant Permit. The Director of Planning and Building is authorized to render a final determination on an application for an Agriculture Permit for a project.

E. Notice. When a notice is required by the provisions of this Section, notice shall be made in accordance with Chapter 30.01 (Noticed, Public Hearings) as modified by the following:

1. The notice shall indicate the time prior to which written objections must be filed.

2. When not specifically designated "adjacent property owners" as defined in Chapter 30.01 (Noticed, Public Hearings), public notice shall be mailed to all occupants and property owners of property located within three-hundred (300) feet of the exterior boundaries of the property which is the subject of the hearing or the twenty (20) nearest occupants and property owners, whichever creates the greater number of notices.

3. An application for an Agriculture Permit for a project which requires an application for a use permit or any other discretionary permit shall be noticed as part of the noticing procedures required by the Code for such other applications.

4. When a hearing is required, 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.

F. Procedure.

1. Pre-application Conference. Prior to submitting an application for an Agriculture 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. Attending a Staff Advisory Committee meeting satisfies this requirement.

2. The owner or the owner's authorized agent of the real property on which the project is proposed shall make application for an Agriculture 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 Section. The application shall include plans, maps and displays in sufficient detail to explain the proposed project's compliance with the regulations contained in this Section.

3. 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.

4. The Director is authorized to approve, disapprove, or conditionally approve an application for an Agriculture Permit in accordance with the provisions of this Section, pursuant to Section 2.28.090.

G. Final Determination.

1. A final determination on the application for an Agriculture Permit shall be made by notice of determination by the Director setting forth the facts which support the action.

2. An application for an Agriculture Permit shall be approved upon satisfying the following findings:

a. Appropriate controls are in place that will ensure the project does not have a negative impact on adjacent properties, their owners and occupants, or the surrounding neighborhood.

b. The proposed location, size, height, operations and other significant features of the use will be compatible with and is appropriate to the area in which it is located.

c. The proposed use does not negatively affect the environment and has adequate safeguards in place to ensure ongoing protection of the environment.

d. The proposed use is consistent with land uses permitted by the zone within which the site is located, and land uses consistent with the General Plan land use designation of the site.

e. All applicable development standards are met.

3. The final determination shall be posted at City Hall and mailed by first class mail to the applicant and shall become final fifteen (15) calendar days thereafter unless an appeal is filed*. (*See Chapter 1.12.020 through 1.12.060)

H. Imposition of Conditions.

1. The Director shall have the authority to impose such conditions and safeguards as it deems necessary to protect and enhance the health, safety, and welfare of the surrounding area, and to ensure that the proposed project for which Agriculture Permit approval is sought fully meets the criteria as set forth in this Section.

2. No Agriculture Permit shall require a condition which is not reasonably related to the project for which the Agriculture Permit is requested.

I. Covenant. At the discretion of the Director, to accomplish the purposes of this Section, the Agriculture Permit may be issued in the form of a covenant to be signed by the permittee and recorded with the County Recorder.

J. Substantial Conformance with Agriculture Permit.

1. Prior to the issuance of a building permit or any other permit required for the construction of a project for which an Agriculture Permit has been issued, the Director shall determine whether the plans submitted for such construction permit are in substantial conformance with the Agriculture Permit.

2. The Director has the authority to find minor changes to project plans to be in substantial conformance if:

a. No project condition is changed or deleted;

b. No feature, facility or amenity is deleted or substantially altered which had been considered essential to the project's quality, safety or function by the decision making body;

c. No additional lots or dwelling units are added;

d. No private or public open space is reduced in area or in its potential for use and enjoyment;

e. The shape and bulk of structures, exterior building materials, landscaping, parking and access are substantially in conformance with the spirit and intent of the Agriculture Permit decision;

f. The grading plan will not increase or decrease the final grade on any part of the site by more than three (3) feet over or under the plan approved by the Agriculture Permit decision, unless the Director finds that the project is not substantially altered by the grading change; and

g. No significant changes are made which, in the opinion of the Director, should be reviewed by the body which approved the original Agriculture Permit.

3. A final determination made under this Section shall be posted at City Hall and will be effective fifteen (15) calendar days thereafter, unless an appeal is filed. The City Council shall be notified of the final determination. If the determination is that the construction is in conformance, the proponent may proceed, at the proponent's own risk, during the fifteen (15) calendar day appeal period. The proponent or any aggrieved person may appeal the decision, or the proponent may apply for a modification of the Agriculture Permit.

K. Modification of Agriculture Permit. A proponent may apply for a modification of a valid Agriculture Permit. The application procedures, hearings and notifications for any modification shall be the same as for a new application. If the Director finds that the modification is minor, and is required due to circumstances beyond the proponent's control, the application for modification shall be given priority in scheduling for a decision.

L. Expiration and Extension of Permit.

1. At any time after two years from the date of approval or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the application shall be deemed expired as of the date of approval (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 calendar days of the date of the determination.

2. The Director may, upon written request by the proponent, grant reasonable extensions of up to a total of two (2) years for the Agriculture Permit; provided no change in City policies has occurred which would be in conflict with the project. A request for such an extension shall be filed with the Director at least fifteen (15) calendar days prior to the expiration of the Agriculture Permit, together with the required application fee. Upon proper filing of an application for extension, public notice shall be made according to the provisions of Chapter 30.01 as modified by this Chapter. A public hearing is not required.

M. Suspension or Revocation of Agriculture Permit

1. The Director shall suspend any Agriculture Permit and issue no certificate of occupancy if the project is not constructed in compliance with the Agriculture Permit. The notice of suspension shall be mailed to the proponent by certified mail and posted on the project site and regular public notice shall be provided.

2. The suspension of the Agriculture Permit and the suspension of all related permits shall be lifted by the Director if:

a. The applicant has completed all necessary changes to bring the project into compliance with the original Agriculture Permit, or with the Agriculture Permit as amended by an appeal or modification; or

- b. The final appeals body has determined that no violation of the Agriculture Permit exists.
- c. Additional conditions may be imposed as a condition of lifting the suspension.

3. Following public notice, a suspended Agricultural Permit may be revoked by the Director when the responsible party cannot demonstrate the ability to resolve the issues resulting in the suspension involving non-compliance with conditions of the entitlement.

N. Reapplications. At least one (1) year shall have elapsed since the effective date of a disapproval of an application before filing a new application seeking substantially the same Agriculture Permit for any of the same property.

O. Appeals. Any person aggrieved by a final determination made under the authority of this Section may seek review by filing an appeal pursuant to the procedures within Chapter 1.12 of the Municipal Code.

- 1. A final determination by the Director shall be appealed only to the City Council.

SECTION TWO: ENCINITAS MUNICIPAL CODE

Section 2.28.090F of Chapter 2.28 of Title 2 of the Encinitas Municipal Code is amended to read as follows:

EMC Chapter 2.28 Cabinet Team Positions and Officers

2.28.090 Director of Planning and Building

F. The Director or his designee shall make a final determination as authorized by the Code for the following applications:

- 1. CDP
- 2. Minor Use Permits
- 3. Minor Variances
- 4. Tentative Parcel Maps
- 5. Waivers of EMC Section 30.16.010 B-10
- 6. Administrative Design Review
- 7. Lot Line Adjustments
- 8. Certificates of Compliance
- 9. Extension Requests
- 10. Agriculture Permits
- 11. Other applications and duties as required by this Code

Title 30 of the City of Encinitas Municipal Code is amended to read as follows:

EMC Chapter 30.01 General Provisions

30.01.070A Noticed Public Hearings

3. Notice shall be mailed to all owners, as shown on the last available County Tax Assessor's rolls of real property in accordance with the following:

b. When not specifically designated "adjacent property owners" as defined in this Chapter above, public notice shall be mailed to all occupants and property owners of property located within five-hundred (500) feet (three-hundred (300) feet for projects requiring an Agriculture Permit) of the exterior boundaries of the property which is the subject of the hearing or the twenty (20) nearest occupants and property owners, whichever creates the greater number of notices. (Ord. 2006-06)

| EMC Chapter 30.09 Use Matrix | | | | | | | | | | | | | | | |
|--|--------------------|--------------------------------|----------------------|--------------|-----|----|----|----|-----|----|----|----------|--------------|----------|-----------|
| USE | RR 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/S P | ER/O S/PK | L- LC | L- VSC |
| Agricultural and Horticultural Production | A | A | A | A | A | A | A | A | X | A | A | A | X | A | X |
| EMC Chapter 30.09 Use Matrix | | | | | | | | | | | | | | | |
| USE | RR 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/S P | ER/O S/PK | L- LC | L- VSC |
| Agricultural Roadside Stand (when adjacent to Circulation Road) | A | A | A | A | X | A | A | A | A | A | A | X | X | X | X |
| EMC Chapter 30.09 Use Matrix | | | | | | | | | | | | | | | |
| USE | RR 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/S P | ER/O S/PK | L- LC | L- VSC |
| Community Garden | A* | A* | A* | A* | A* | A* | A* | A* | X | A* | A* | A* | Cm** | A* | X |
| *See Chapter 30.33 (Urban Agriculture) for regulations related to community gardens. | | | | | | | | | | | | | | | |
| **Limited to improved and unimproved park sites in the ER/OS/PK zone. See Chapter 30.33 (Urban Agriculture). | | | | | | | | | | | | | | | |

| EMC Chapter 30.09 Use Matrix | | | | | | | | | | | | | | | |
|--|-----------------------------|---|--------------------------------|----------------------|------------|-----------|-----------|-----------|------------|-----------|-----------|------------------|----------------------|------------------|------------------------|
| USE | RR 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/S P | ER/O S/PK | L- LC | L- VS C |
| Farmers' Market | X | X | X | X | X | X | A | A | A | A | X | A | X | X | A |
| EMC Chapter 30.09 Use Matrix Legend | | | | | | | | | | | | | | | |
| <p>P = Permitted by Right C = Conditional Use Permit Required (Major) Cm = Conditional Use Permit Required (Minor) A = Agriculture Permit X = Prohibited</p> | | | | | | | | | | | | | | | |

EMC Chapters 30.16 Residential Zones and 30.20 Commercial Zones

30.16.010D9e

9. Auxiliary structures/equipment and utilities. The following development standards related to auxiliary structures/equipment and utilities shall apply:

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. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of the Municipal Code.

30.20.010F5

F. Auxiliary structures/equipment and utilities. In all commercial zones, the following development standards related to auxiliary structures/equipment and utilities shall apply:

5. 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. This requirement does not apply to temporary outdoor sales areas, car lots, or agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of the Municipal Code.

EMC Chapter 30.20 Commercial Zones

30.20.010B3 Development Standards

B. Site Planning. In all commercial zones, the following development standards related to general site planning shall apply:

3. All uses shall be located within an enclosed building unless authorized by a Minor Use Permit. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of the Municipal Code.

EMC Chapter 30.32 Ecological Resource/Open Space/Parks

30.32.010 Development Standards

A. Because use of land within the Ecological Resource/Open Space/Parks zone is restricted to limited public activities and facilities, all forms of development other than essential utility lines are required to obtain a conditional use permit.

In addition, conditionally permitted uses within coastal zone ecological resource areas designated ER/OS/PK shall be restricted to Agricultural and Horticultural Production uses (limited to aquaculture*), Community Gardens (limited to improved or unimproved park sites), Public Educational Institution uses (limited to nature centers or interpretive facilities), Fish Hatchery uses (limited to aquaculture), Land Reclamation Project uses (limited to restoration projects), Parks and Recreational Area uses (limited to public uses) and Public Recreational Facility uses only. (Ord. 95-04)

* Aquaculture operations shall be land-based and shall not require intake or discharge from coastal waters. The operations shall use closed loop circulation systems and must use municipal water and sewer. In addition, operations shall be planned, sited, designed and managed to protect the quality and biological productivity of coastal waters, including the ocean, rivers, streams, wetlands, estuaries, lakes, and groundwater.

EMC Chapter 30.48 Accessory Uses

30.48.040 Residential and Agricultural Zones.

N. Roadside Sales of Agricultural Products. Operation of a stand, not to exceed an area of 200 square feet, for the display and sale, by the occupant of the premises, of agricultural products produced on the premises. Agricultural products produced off-site may be displayed and sold from said stand. Said stand to be located not nearer than 15 feet to any street or highway, and provided further that such stands shall be permitted only in those zones subject to an Agriculture Permit.

Z. Temporary Food Stand. Temporary food stands for sale of agricultural products or cottage foods as defined by state law by the residents(s) are permitted as an activity of limited duration (12 hours a week during daylight hours) and may involve the placement of non-permanent structures (e.g., portable furniture) not exceeding a maximum of 120 square feet in sale/display area. Structures shall not create a nuisance, obstruction or hazard and shall not displace required parking for other uses on the site.

EMC Chapter 30.54 Off-Street Parking

30.54.030 Schedule of Off-Street Parking.

Agricultural

| | |
|-----------------------------|---|
| Horticulture | 1 space per 2 acres plus parking for other uses on site based on use. |
| Agricultural Roadside Sales | 5 spaces. |
| Community Garden | No parking required if on-street parking is available within 400 feet. |
| Greenhouses | 3 spaces per acre plus parking for other uses in accord with this schedule. |

EMC Chapter 30.55 Animal Regulations

30.55.020D General Requirements – Animal Activity Matrix

| USE | RR | RR-1 | RR-2 | R-3 | R-5 | R-8 | RS-11 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 6. Small Animal Raising (includes poultry) | | | | | | | |
| A. 10 maximum | P | P | P | P | P | P | P |
| B. 11-25 maximum | P | P | P | A | A | A | A |
| C. 26-100 maximum | A | A | A | A | A | X | X |
| 10. Specialty Animal Raising | | | | | | | |
| A. Bees (See Section 30.55.060) | P ¹ |
| B. Birds | | | | | | | |
| 10 or less | P | P | P | P | P | P | P |
| more than 10 (maximum 100) | P | P | P | Cm | Cm | Cm | Cm |
| over 100 | Cm |
| C. Others (* indicates 10 or less) | P | P | P | P* | P* | P* | P |

X: Not Permitted
P: Permitted
A: Agriculture Permit
Cm: Minor Conditional Use Permit
C: Major Conditional Use Permit

¹: Tier A applies to all single family residential zones. Tier B applies to RR and RR-1 Zones. Tier C applies to RR Zone. See Section 4.04.020F for additional information regarding the tiered regulations for beekeeping.

EMC Chapter 30.55 Animal Regulations

30.55.030 Enclosure Requirements.

Enclosures containing the animal-related uses described in this chapter includes pens, coops, hutches, stables, barns, corrals, and similar structures and shall be subject to the following requirements:

- A. All enclosures must be at least 35 feet from any dwelling unit on an adjacent lot.
- B. All enclosures shall be required to maintain a 100 foot buffer from all wetland areas and a 50 foot buffer from riparian wetland areas per Section 30.34.040B3 of the Encinitas Municipal Code.
- C. The keeping of animals shall not be permitted in the required front or street sideyard setback areas for main buildings, unless the lot on which the animals are kept is larger than half an acre or located in RR zones.
- D. All enclosures shall be adequate to contain the animals intended to be enclosed and in all cases animals shall be contained within the boundaries of the property on which they are housed. Said animals shall not impact properties that contain environmentally sensitive areas.
- E. All excrement produced by said animals shall be disposed of on a regular basis so as to control flies and odor.
- F. Low voltage electrical fencing is permitted for containment of large animals subject to the following regulations:
 - 1. Electrical fencing may be maintained on the property line at a maximum of six feet in height. When the electrical fence is adjacent to a public road or access easement, the electrical fence shall be located on the inside of a non-electrical fence.
 - 2. Permits shall be obtained from the Building Department unless exempt. UL (Underwriters Laboratory) approved and other recognized agencies approved electrical fencing is exempt from permits.
 - 3. Appropriate signage shall be posted to give notice of the electrical fencing.

EMC Chapter 30.80 Coastal Development Permit

30.80.020 Authority to Grant Permit.

A. The Director of Planning and Building (hereinafter "Director") shall have authority to render a final determination for coastal development permits on the following application types:

1. Minor Use Permits
2. Minor Variances
3. Tentative Parcel Maps
4. Waivers of Municipal Code Section 30.16.010B-10
5. Agriculture Permits
6. Administrative Design Review Permits as follows:

30.80.080B Public Hearing by Authorized City Agency. The authorized agency shall hold a public hearing on coastal development permit requests or amendments to existing permits if the associated discretionary actions by the City otherwise require a public hearing, or if the location of the proposed project is within the area subject to appeal to the Coastal Commission pursuant to Section 30.80.030(A)3 of this code. The hearing shall be scheduled and noticed as described in Chapter 30.01 of this Code except as modified by the following: (Ord. 96-07)

A. In addition to the requirements for contents of the notice of public hearing described in Chapter 30.01, the notice shall also state that the proposed project is in the Coastal Zone, contains a request for issuance of a coastal development permit, whether it includes development which is appealable to the California Coastal Commission and the system for local and Coastal Commission appeals, including any local fees required.

B. In addition to the requirements for ways in which the notice of public hearing is provided is described in Chapter 30.01, the notice shall be sent as first class mail at least 10 calendar days prior to the public hearing to the applicant or authorized agent; interested persons (all persons who have requested to be on the mailing list for that development project or for coastal decisions within the City); residents (occupants) and property owners within 500 feet (three-hundred (300) feet for projects requiring an Agriculture Permit) of the perimeter of the parcel on which the development is proposed, and the Coastal Commission. (Ord. 2006-06)

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

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

Chapter 3 Use and Development Regulations

3.2 USE AND DEVELOPMENT STANDARDS

3.2.1 General Provisions

3.2.2 Definitions

3.2.3 Urban Agriculture

Chapter 30.33 (Urban Agriculture) of Title 30 of the Municipal Code shall be incorporated by reference into the Cardiff-by-the-Sea Specific Plan.

3.2.4 Planning Areas and Zones

3.2.5 Zones and Development Standards

In order to classify, designate, regulate and restrict the uses of land, buildings, and other structures to achieve the purposes of this Specific Plan and of the General Plan of the City of Encinitas, the zones and development standards described in the following sections were established. The development standards are minimum unless otherwise stated.

A. Permitted, Conditionally-Permitted and Prohibited Uses - General

Only those uses listed in Table 3-1 shall be permitted in the zones identified. Uses are designated as permitted, conditionally permitted (a minor or major use permit may be required) or as secondary, ancillary, or accessory to a principal use. Uses are also limited in regard to ground or upper floor location in order to maintain and enhance a pedestrian-oriented environment and economically viable downtown. Table 3-1 also identifies prohibited uses in certain zones. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of the Encinitas Municipal Code. All other uses not listed in Table 3-1 are expressly prohibited. Except however, in the event a use is not specifically permitted within a zone but is similar in character to a use which is listed, a determination of allowable use may be applied for as per Municipal Code Section 30.01.030.

Chapter 3 Use and Development Regulations

3.2.4A Permitted, Conditionally-Permitted and Prohibited Uses – General

| P = Permitted by Right C = Major Conditional Use Permit Cm = Minor Conditional Use Permit A = Agriculture Permit | | | | | |
|---|--------|------|--------|--------|-------|
| Use | C-R-11 | C-OP | C-GC-1 | C-GC-2 | Notes |
| Farmers' Market | X | X | A | A | |

Chapter 3 Use and Development Regulations

3.6.1 All Site Planning

B. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

3.6.3 Auxiliary Structures/Equipment and Utilities

E. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be not less than six (6) feet in height to adequately screen such areas from public view. Reasonable substitutions such as masonry, wood or metal pilasters with wrought iron or vinyl-clad chain link and view obscuring material may be approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

SECTION THREE: DOWNTOWN ENCINITAS SPECIFIC PLAN

The Downtown Encinitas Specific Plan is amended to read as follows:

Chapter 3 Use and Development Regulations

3.2 DEVELOPMENT STANDARDS

D. Zones and Development Standards

- a. In order to classify, designate, regulate and restrict the uses of land, buildings, and other structures to achieve the purposes of this Specific Plan and of the General Plan of the City of Encinitas, the zones and development standards described in the tables below were established. The development standards are minimum unless otherwise stated.
- b. The following development standards shall apply. Title 30 of the Encinitas Municipal Code standards shall apply when referenced. If there is a conflict between the development standards of this Section and Title 30 of the Encinitas Municipal Code, the development standards of this Section supersede.
- c. In the event a proposed use is not specifically listed as allowed under a zone, but is similar in character to a use which is listed, a determination of allowable use per Municipal Code Section 30.01.030 may be applied for.
- d. The following Chapter(s) of Title 30 of the Encinitas Municipal Code are incorporated by reference in the Downtown Encinitas Specific Plan:

Chapter 30.33, Urban Agriculture

Chapter 3 Use and Development Regulations

3.2.1 Residential Zones

A. Zone: Residential 11 (D-R11)

The following principal uses shall be permitted in the D-R11 Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

B. Zone: Residential 15 (D-R15)

The following principal uses shall be permitted in the D-R15 Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

C. Zone: Residential 25 (D-R25)

The following principal uses shall be permitted in the D-R25 Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

3.2.2 Commercial Zones

A. Zone: Office Professional (D-OP)

The following principal uses shall be permitted in the D-OP Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

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

The following principal uses shall be permitted in the D-VSC Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

3.2.3 Mixed Use Zones

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

The following principal uses shall be permitted in the D-CM-1 Zone and are identified as either a permitted use or those uses permitted upon the issuance of a minor use permit or major use permit. Those uses permitted or prohibited in a storefront location are also identified. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

1. Permitted Uses
2. Minor Use Permits
3. Major Use Permits
4. Agriculture Permits

| | |
|-----------------|-------------------------------------|
| | Prohibited in a storefront location |
| Farmers' Market | |

5. Development Standards

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

The following principal uses shall be permitted in the D-CM-2 Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

1. Permitted Uses
2. Minor Use Permits
3. Major Use Permits
4. Agriculture Permits

Farmers' Market

5. Development Standards

C. Zone: Visitor Commercial Mixed (D-VCM)

The following principal uses shall be permitted in the D-VCM Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

D. Zone: Office Mixed (D-OM)

The following principal uses shall be permitted in the D-OM Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

3.2.4 Public/Semi-Public Zones

A. Zone: Civic Center (D-CC)

The following principal uses shall be permitted in the D-CC Zone and are identified as either a permitted, minor use permit or major use permit. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses are prohibited.

B. Zone: Public/Semi-Public (D-P/SP)

Use and development standards pursuant to Section 30.28.010, P/SP Zone of Title 30 of the Encinitas Municipal Code shall apply. In addition, agricultural uses are permitted in accordance as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

D-CM-1

A.4.q. Auxiliary Structures/Equipment and Utilities: In the D-CM-1 Zone, the following development standards shall apply:

5. Outdoor storage areas approved by Minor Use Permit shall be located to the rear of a building and shall be entirely enclosed by solid walls not less than six (6) feet in height to adequately screen such areas from view. This requirement does not apply to approved temporary uses, approved outdoor sales areas, or agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

D-CM-2

B.4.s. Auxiliary Structures/Equipment and Utilities: In the D-CM-2 Zone, the following development standards shall apply:

5. Outdoor storage areas approved by Minor Use Permit shall be located to the rear of a building and shall be entirely enclosed by solid walls not less than six (6) feet in height to adequately screen such areas from view. This requirement does not apply to approved temporary uses, approved outdoor sales areas, or agricultural use authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

D-OM

D.4.p. Auxiliary Structures/Equipment and Utilities: In the D-OM Zone, the following development standards shall apply:

5. Outdoor storage areas shall be prohibited, except for accessory storage customarily appropriate to residential uses. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

SECTION FOUR: ENCINITAS RANCH SPECIFIC PLAN

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

Chapter 6.0 Encinitas Ranch Zoning Ordinance

Portions of the City's Municipal Code are Incorporated by Reference into this Specific Plan

To prevent unnecessary redundancy between the Encinitas Ranch and the City of Encinitas Municipal Code, the following chapters and sections in Title 30, as adopted and subsequently

amended by the City of Encinitas, are incorporated in their entirety by reference into the Encinitas Ranch Zoning Ordinance, unless otherwise amended or qualified within Section 6.0 of this document:

- Chapter 23.08 – *Design Review*
- Chapter 23.24 – *Grading, Erosion & Sedimentation Control*
- Chapter 24 – *Subdivisions*
- Chapter 30.01 – *General Provisions*
- Chapter 30.04 – *Chapter Definitions*
- Section 30.16.010B – *All Residential Zones*
- Section 30.16.010F – *Fences and Walls*
- Section 30.16.020B – *Planned Residential Development*
- Chapter 30.26 – *Adult Businesses*
- Chapter 30.28 – *Public/Semi-Public Zone*
- Chapter 30.33 – *Urban Agriculture**
- Chapter 30.34 – *Special Purpose Overlay*
- Chapter 30.40 – *Performance Standards*
- Chapter 30.46 – *Temporary Use Regulations*
- Chapter 30.48 – *Accessory Use Regulations*
- Chapter 30.54 – *Off-Street Parking*
- Chapter 30.55 – *Animal Regulations*
- Chapter 30.56 – *Recycling Facilities*
- Chapter 30.60 – *Signs*
- Chapter 30.72 – *Zoning Amendment*
- Chapter 30.74 – *Use Permits*
- Chapter 30.76 – *Nonconformities*
- Chapter 30.78 – *Variances*
- Chapter 30.80 – *Coastal Development Permit*

* Chapter 30.33 (Urban Agriculture) establishes a comprehensive system for the regulation of urban agriculture throughout the city without restricting existing agricultural regulations established by the Specific Plan. In the event of any conflict between the Encinitas Ranch Zoning Ordinance and Chapter 30.33 (Urban Agriculture) of the Municipal Code, the least restrictive regulation shall control as determined by the Planning and Building Director.

6.2 Agriculture Zone (“AG” Zone)

6.2.2 Uses Permitted

- 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.
- B. *Major Use Permit.* The following uses are permitted in “ER-C” Zones, provided a Major Use Permit has been granted pursuant to the Municipal Code.
- C. *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.
- D. *Agriculture Permit.* The following uses are permitted in “ER-C” Zones, provided an

Agriculture Permit has been granted pursuant to the Municipal Code.

Farmers' Market

- E. Permitted Accessory Uses.
- F. Animal Regulations.
- G. Prohibited Uses.
- H. Limitations in Agriculturally Zoned Areas.
- I. Design Review.
- J. Performance Standards.

6.8 Commercial Zone ("ER-C" Zone)

6.8.1 Uses Permitted

- 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.
- B. *Major Use Permit.* The following uses are permitted in "ER-C" Zones, provided a Major Use Permit has been granted pursuant to the Municipal Code.
- C. *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.
- D. *Agriculture Permit.* The following uses are permitted in "ER-C" Zones, provided an Agriculture Permit has been granted pursuant to the Municipal Code.

Farmers' Market

SECTION FIVE: NORTH 101 CORRIDOR SPECIFIC PLAN

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

Chapter 3 Development Standards

3.1.2 COMMERCIAL ZONES

A. Zone: Commercial Mixed 1 (N-CM-1)

The following principal uses shall be permitted in the N-CM-1 Zone and are identified as either permitted, or requiring a minor use permit or major use permit. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses not specifically listed are prohibited.

- 1. Permitted Uses:
- 2. Minor Use Permits:
- 3. Major Use Permits:
- 4. Agriculture Permit:

Farmers' Market

A.4.e. General Site Planning:

2. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

A.4.h. Auxiliary Structures/Equipment and Utilities:

5. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be 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 vinyl-clad chain link and view obscuring material may be approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

B. Zone: Commercial Mixed 2 (N-CM-2)

The following principal uses shall be permitted in the N-CM-2 Zone and are identified as either permitted, or requiring a minor use permit or major use permit. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses not specifically listed are prohibited.

1. Permitted Uses:
2. Minor Use Permits:
3. Major Use Permits:
4. Agriculture Permit:

Farmers' Market

B.4.e. General Site Planning:

2. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

B.4.h. Auxiliary Structures/Equipment and Utilities:

5. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be 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 vinyl-clad chain link and view obscuring material may be

approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

C. Zone: Commercial Mixed 3 (N-CM-3)

The following principal uses shall be permitted in the N-CM-3 Zone and are identified as either permitted, or requiring a minor use permit or major use permit. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses not specifically listed are prohibited.

1. Permitted Uses:
2. Minor Use Permits:
3. Major Use Permits:
4. Agriculture Permit:

Farmers' Market

C.4.e. General Site Planning:

2. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

C.4.h. Auxiliary Structures/Equipment and Utilities:

5. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be 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 vinyl-clad chain link and view obscuring material may be approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

D. Zone: Commercial Residential Mixed 1 (N-CRM-1)

The following principal uses shall be permitted in the N-CRM-1 Zone and are identified as either permitted, or requiring a minor use permit or major use permit. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses not specifically listed are prohibited.

1. Permitted Uses:
2. Minor Use Permits:
3. Major Use Permits:
4. Agriculture Permit:

Farmers' Market

D.6.a. General Site Planning:

2. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

D.6.d. Auxiliary Structures/Equipment and Utilities:

5. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be 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 vinyl-clad chain link and view obscuring material may be approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

E. Zone: Commercial Residential Mixed 2 (N-CRM-2)

The following principal uses shall be permitted in the N-CRM-2 Zone and are identified as either permitted, or requiring a minor use permit or major use permit. In addition, agricultural uses are permitted in accordance with Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code. All other principal uses not specifically listed are prohibited.

E.6.a. General Site Planning:

2. All commercial uses, including storage, shall be located within an enclosed building unless authorized by a Minor Use Permit, or as otherwise permitted by this Specific Plan. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

E.6.d. Auxiliary Structures/Equipment and Utilities:

5. Outdoor storage areas, when approved by minor use permit, shall be located to the rear of a building and shall be enclosed by solid decorative masonry walls and view-obstructing gates, both to be 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 vinyl-clad chain link and view obscuring material may be approved through Design Review. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of Title 30 of the Encinitas Municipal Code.

SECTION SIX: ENVIRONMENTAL DETERMINATION.

The project enacted as a result of this ordinance would establish regulations and standards for urban agricultural uses within Encinitas and its implementation would require amendments to the City's Local Coastal Program, Municipal Code, and adopted Specific Plans. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) of the CEQA Guidelines as it relates to uses and development permitted by right that are enabled by this ordinance. Section 15301 exempts the operation or minor alteration of existing public or private structures and facilities. Section 15303 exempts construction of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Section 15304 exempts minor alterations in the condition of land, water, and/or vegetation and includes activities such as new gardening, grading, and minor temporary uses of land. The project envisions small-scale agricultural uses and development that are consistent with the aforementioned exemption categories and associated exemption criteria and are subject to uniformly applied standards, as described further below and included in the ordinance, such as those related to size and placement restrictions, limitations on duration of use, public safety, and minimization of nuisance effects. None of the exceptions in CEQA Guidelines Section 15300.2 exist.

The ordinance also includes uniformly applied standards for the urban agricultural uses that would avoid significant environmental effects. In addition, the ordinance mandates that urban agricultural activities shall comply with all federal, state, and local regulations, including those related to steep slope encroachment, grading, stormwater quality, clearing of natural vegetation, and buffers for sensitive habitat, wetlands, and bluffs. Future agricultural uses under the ordinance would be required to comply with uniformly applied development policies and standards established by these regulations. Compliance with these policies and standards would also avoid significant environmental effects.

The amendments to the City's Local Coastal Program (LCP) are exempt from CEQA pursuant to section 15265 of the CEQA Guidelines, which exempts activities and approvals pursuant to the California Coastal Act by any local government for the adoption of a Local Coastal Program. This section is intended to shift the burden of CEQA compliance for LCP approvals from the local agency to the California Coastal Commission.

Agricultural uses under the ordinance requiring an Agricultural Permit, Coastal Development Permit, or other discretionary permit are anticipated to be exempt from CEQA under Sections 15303 and 15304 for substantially similar reasons. However, the discretionary permits associated with these uses would still require future site-specific environmental reviews under CEQA. The potential impacts of any specific future project enabled by this ordinance and subject to CEQA would be assessed at the time when the project is actually proposed, and mitigation measures would be adopted as necessary, in conformance with CEQA. Any analysis of site-specific effects for future discretionary permits cannot be reasonably ascertained at this time and would be considered speculative.

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 May 11, 2016.

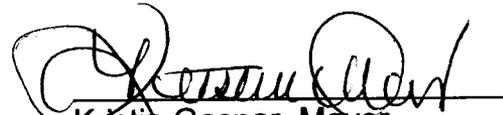
PASSED AND ADOPTED this 25th day of May, 2016 by the following vote to wit:

AYES: Blakespear, Kranz, Shaffer.

NAYS: Gaspar, Muir.

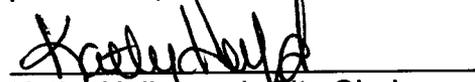
ABSTAIN: None.

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. 2016-08 which has been published pursuant to law.


Kathy Hollywood, City Clerk

ENCINITAS MUNICIPAL CODE - TITLES 2 AND 30

The following amendments are necessary to address areas of the Municipal Code that are affected by the addition of Chapter 30.33 (Urban Agriculture) in the Municipal Code.

The amendments affect two Titles (2 and 30) of the Municipal Code. Amendments are shown in a red ~~strikeout~~/underline format.

Municipal Code – Title 2 Administration

EMC Chapter 2.28 Cabinet Team Positions and Officers

2.28.090 Director of Planning and Building

F. The Director or his designee shall make a final determination as authorized by the Code for the following applications:

1. CDP
2. Minor Use Permits
3. Minor Variances
4. Tentative Parcel Maps
5. Waivers of EMC Section 30.16.010 B-10
6. Administrative Design Review
7. Lot Line Adjustments
8. Certificates of Compliance
9. Extension Requests
10. Agriculture Permits
- ~~10~~. Other applications and duties as required by this Code

STAFF COMMENT: Staff has revised Section 2.28.090F to include “Agriculture Permits” as an application the Director shall make a final determination as authorized by the Code.

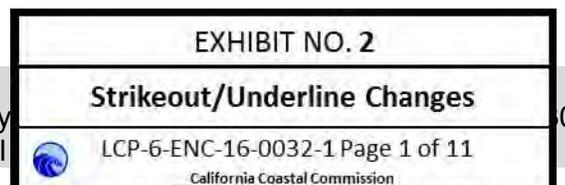
Municipal Code – Title 30 Zoning

EMC Chapter 30.01 General Provisions

30.01.070A Noticed Public Hearings

3. Notice shall be mailed to all owners, as shown on the last available County Tax Assessor's rolls of real property in accordance with the following:
 - b. When not specifically designated "adjacent property owners" as defined in this Chapter above, public notice shall be mailed to all occupants and property owners of property located within five-hundred (500) feet (three-hundred (300) feet for projects requiring an Agriculture Permit) of the exterior boundaries of the property which is the subject of the hearing or the twenty (20) nearest occupants and property owners, whichever creates the greater number of notices. (Ord. 2006-06)

STAFF COMMENT: Staff has revised Section 30.01.070A to clarify foot radius notice rather than the current 500 foot radius notice for all



EMC Chapter 30.09 Zoning Use Matrix (throughout legend)

- P = Permitted by Right
 C = Conditional Use Permit Required (Major)
 Cm = Conditional Use Permit Required (Minor)
A = Agriculture Permit
 X = Prohibited

STAFF COMMENTS: Staff has revised the legend in the Zoning Use Matrix to include Agriculture Permit.

EMC Chapter 30.09 Zoning Use Matrix

| USE | RR 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/S P | ER/OS/ PK | L- LC | L- VSC |
|--|---------------------------|----------------------------|---------------------------|---------------------------|-----|---------------------------|---------------------------|---------------------------|-----|---------------------------|---------------------------|----------|--------------|----------|-----------|
| Agricultural & Horticulture Production | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | X | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | X | Cm <u>A</u> | Cm <u>A</u> | X | Cm *** | X | X |

***Limited to aquaculture uses (as defined by this Title) within the Coastal Zone.

STAFF COMMENTS: Staff has revised “Agricultural & Horticultural Production” in the Zoning Matrix to allow with an Agriculture Permit rather than a Minor Use Permit.

EMC Chapter 30.09 Zoning Use Matrix

| USE | RR 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/PK | L- LC | L- VSC |
|---|---------------------------|----------------------------|---------------------------|---------------------------|-----|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|------|----------|----------|-----------|
| Agricultural Roadside Stand (when adjacent to Circulation Element Road) | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | X | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | Cm <u>A</u> | X | X | X | X |

STAFF COMMENTS: Staff has revised “Agricultural Roadside Stand” in the Zoning Matrix to allow with an Agriculture Permit rather than a Minor Use Permit.

EMC Chapter 30.09 Zoning Use Matrix

| USE | RR 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/PK | L- LC | L- VSC |
|-------------------------|--------------------|----------------------------|--------------|--------------|-----------|-----------|-----------|-----------|----------|-----------|-----------|-----------|-------------|-----------|-----------|
| <u>Community Garden</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>X</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>Cm**</u> | <u>A*</u> | <u>X</u> |

*See Chapter 30.33 (Urban Agriculture) for regulations related to community gardens.

**A community garden is prohibited within the Coastal Appeal Zone of the ER/OS/PK Zone. See Chapter 30.33 (Urban Agriculture).

STAFF COMMENTS: Staff has added “Community Garden” as a new use in the Zoning Matrix and added a footnote to see Chapter 30.33 (Urban Agriculture) for regulations related to community gardens. Staff has also added a footnote to clarify that community gardens are only permitted on improved and unimproved park sites in the ER/OS/PK Zone.

EMC Chapter 30.09 Zoning Use Matrix

| USE | RR 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/PK | L- LC | L- VSC |
|-----------------|--------------------|----------------------------|--------------|--------------|-----------|-----------|----------|----------|----------|----------|-----------|----------|-----------|-----------|-----------|
| Farmers’ Market | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A*</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A</u> | <u>A*</u> | <u>A</u> | <u>A*</u> | <u>A*</u> | <u>A</u> |

* Limited to sites with an existing church, school, or agricultural use.

STAFF COMMENTS: Staff has added Farmers’ Market as an allowable use with an Agriculture Permit. Currently, a farmers’ market would fall under the use “Outdoor Sales”, which requires a Major or Minor Use Permit, depending on the zone.

EMC Chapters 30.16 Residential Zones and 30.20 Commercial Zones

30.16.010D9e

9. Auxiliary structures/equipment and utilities. The following development standards related to auxiliary structures/equipment and utilities shall apply:

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. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of the Municipal Code.

STAFF COMMENTS: Staff has revised Sections 30.06.010D9e for Residential and Commercial zones, which addresses outdoor storage and sales, to clarify that agricultural uses authorized in Chapter 30.33 (Urban Agriculture) are not subject to these requirements.

EMC Chapter 30.20 Commercial Zones

30.20.010B3 Development Standards

B. Site Planning. In all commercial zones, the following development standards related to general site planning shall apply:

3. All uses shall be located within an enclosed building unless authorized by a Minor Use Permit. This requirement does not apply to agricultural uses authorized as per Chapter 30.33 (Urban Agriculture) of the Municipal Code.

STAFF COMMENTS: Staff has added a sentence to Section 30.20.010B3 which clarifies the requirement does not apply to agricultural uses in Chapter 30.33 (Urban Agriculture) of the Municipal Code.

EMC Chapter 30.33 Urban Agriculture

Chapter 30.33

URBAN AGRICULTURE

Sections:

30.33.010 PURPOSE

30.33.020 GENERAL REQUIREMENTS

30.33.030 COMMUNITY GARDEN

30.33.040 AGRICULTURE PERMIT

30.33.010 PURPOSE

A. The purpose of this Chapter is to establish regulations for new agricultural uses and to establish a simplified permit for all agricultural uses in this Title requiring a discretionary action.

B. It is the intent of this Chapter to further the greater public interest in allowing urban agriculture, which can provide multiple benefits to the community. Urban agriculture connects residents to the broader food system, builds community, and offers local food access, education and economic development potential. Urban agricultural also encourages sustainable practices that protect the environment, public health, and animal welfare.

C. In addition to the regulations set forth in this Chapter, other chapters in the Municipal Code and each specific plan, identified in Chapter 30.84 (Specific Plans), have additional or separate regulations for agriculture.

30.33.020 GENERAL REQUIREMENTS

A. Urban agriculture activities shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including but not limited to, Certified Local Coastal Program, steep slope encroachment, grading, stormwater quality, clearing of natural vegetation, and buffers from sensitive habitat, wetlands and bluffs.

30.33.030 COMMUNITY GARDEN

A Community Garden is permitted with an Agriculture Permit in all zones except the L-VSC and VSC Zones and shall be subject to the following standards:

A. Limitations. A Community Garden is prohibited within the Coastal Appeal Zone of the ER/OS/PK Zone.

B. Hours of Operation. Hours of operation shall be limited to the hours between sunrise and sunset. No motorized equipment shall be used on-site before 7 A.M. nor after 7 P.M.

C. Parking. No parking is required if adequate on-street parking is available within 400 feet.

D. Water Use. Potable water efficient irrigation techniques such as drip irrigation or micro-spray systems with timers to control watering times are encouraged. All hoses shall be equipped with a positive shut-off trigger nozzle. Mulching of planted areas is encouraged to retain plant moisture.

E. Composting. Composting as an accessory use may be performed onsite within a composting container subject to the following standards:

1. Composted materials shall be only those materials generated onsite or contributed by active members of the community garden.

2. Composting containers shall be as close as practicable to the center of the property and/or community garden.

F. The keeping of chickens (hens only, not roosters) at a community garden shall be permitted subject to the following

provisions:

1. Number of chickens and location of enclosure for chickens at a community garden shall comply with requirements of Chapter 30.55 of the Encinitas Municipal Code.
2. Sales. A community garden that sells its produce to a retailer, shall not locate the planting areas down slope from the enclosure and animal waste may not be used to fertilize the community garden.

30.33.040 AGRICULTURE PERMIT

A. Purpose. It is the purpose of this section to provide procedures for the review and, where necessary, the imposition of special conditions of approval on proposed projects which involve special site or design requirements, operating characteristics or potential adverse effects on the surrounding area.

B. Scope of Section. This Section applies to all projects which are required by the provisions of the Encinitas Municipal Code to obtain an Agriculture Permit.

C. Prohibitions.

1. Without first having obtained an Agriculture Permit, it shall be unlawful for any person to construct a project when such a project is required by the provisions of the Encinitas Municipal Code to obtain an Agriculture Permit.
2. No building permit or other development permits shall be issued relating to a project for which an Agriculture Permit is required by the provisions in the Encinitas Municipal Code until the Agriculture Permit is obtained.
3. In the Coastal Zone, an Agricultural Permit shall not be issued without a Coastal Development Permit.

D. Authority to Grant Permit. The Director of Planning and Building is authorized to render a final determination on an application for an Agriculture Permit for a project.

E. Notice. When a notice is required by the provisions of this Section, notice shall be made in accordance with Chapter 30.01 (Noticed, Public Hearings) as modified by the following:

1. The notice shall indicate the time prior to which written objections must be filed.
2. When not specifically designated “adjacent property owners” as defined in Chapter 30.01 (Noticed, Public Hearings), public notice shall be mailed to all occupants and property owners of property located within three-hundred (300) feet of the exterior boundaries of the property which is the subject of the hearing or the twenty (20) nearest occupants and property owners, whichever creates the greater number of notices.
3. An application for an Agriculture Permit for a project which requires an application for a use permit or any other discretionary permit shall be noticed as part of the noticing procedures required by the Code for such other applications.
4. When a hearing is required, 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.

F. Procedure.

1. Pre-application Conference. Prior to submitting an application for an Agriculture 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. Attending a Staff Advisory Committee meeting satisfies this requirement.

2. The owner or the owner's authorized agent of the real property on which the project is proposed shall make application for an Agriculture 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 Section. The application shall include plans, maps and displays in sufficient detail to explain the proposed project's compliance with the regulations contained in this Section.

3. 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.

4. The Director is authorized to approve, disapprove, or conditionally approve an application for an Agriculture Permit in accordance with the provisions of this Section, pursuant to Section 2.28.090.

G. Final Determination.

1. A final determination on the application for an Agriculture Permit shall be made by notice of determination by the Director setting forth the facts which support the action.

2. An application for an Agriculture Permit shall be approved upon satisfying the following findings:

a. Appropriate controls are in place that will ensure the project does not have a negative impact on adjacent properties, their owners and occupants, or the surrounding neighborhood.

b. The proposed location, size, height, operations and other significant features of the use will be compatible with and is appropriate to the area in which it is located.

c. The proposed use does not negatively affect the environment and has adequate safeguards in place to ensure ongoing protection of the environment.

d. The proposed use is consistent with land uses permitted by the zone within which the site is located, and land uses consistent with the General Plan land use designation of the site.

e. All applicable development standards are met.

3. The final determination shall be posted at City Hall and mailed by first class mail to the applicant and shall become final fifteen (15) calendar days thereafter unless an appeal is filed*. (*See Chapter 1.12.020 through 1.12.060).

H. Imposition of Conditions.

1. The Director shall have the authority to impose such conditions and safeguards as it deems necessary to protect and enhance the health, safety, and welfare of the surrounding area, and to ensure that the proposed project for which Agriculture Permit approval is sought fully meets the criteria as set forth in this Section.

2. No Agriculture Permit shall require a condition which is not reasonably related to the project for which the Agriculture Permit is requested.

I. Covenant. At the discretion of the Director, to accomplish the purposes of this Section, the Agriculture Permit may be issued in the form of a covenant to be signed by the permittee and recorded with the County Recorder.

J. Substantial Conformance with Agriculture Permit.

1. Prior to the issuance of a building permit or any other permit required for the construction of a project for which an Agriculture Permit has been issued, the Director shall determine whether the plans submitted for such construction permit are in substantial conformance with the Agriculture Permit.

2. The Director has the authority to find minor changes to project plans to be in substantial conformance if:

- a. No project condition is changed or deleted;
- b. No feature, facility or amenity is deleted or substantially altered which had been considered essential to the project's quality, safety or function by the decision making body;
- c. No additional lots or dwelling units are added;
- d. No private or public open space is reduced in area or in its potential for use and enjoyment;
- e. The shape and bulk of structures, exterior building materials, landscaping, parking and access are substantially in conformance with the spirit and intent of the Agriculture Permit decision;
- f. The grading plan will not increase or decrease the final grade on any part of the site by more than three (3) feet over or under the plan approved by the Agriculture Permit decision, unless the Director finds that the project is not substantially altered by the grading change; and
- g. No significant changes are made which, in the opinion of the Director, should be reviewed by the body which approved the original Agriculture Permit.

3. A final determination made under this Section shall be posted at City Hall and will be effective fifteen (15) calendar days thereafter, unless an appeal is filed. The City Council shall be notified of the final determination. If the determination is that the construction is in conformance, the proponent may proceed, at the proponent's own risk, during the fifteen (15) calendar day appeal period. The proponent or any aggrieved person may appeal the decision, or the proponent may apply for a modification of the Agriculture Permit.

K. Modification of Agriculture Permit. A proponent may apply for a modification of a valid Agriculture Permit. The application procedures, hearings and notifications for any modification shall be the same as for a new application. If the Director finds that the modification is minor, and is required due to circumstances beyond the proponent's control, the application for modification shall be given priority in scheduling for a decision.

L. Expiration and Extension of Permit.

1. At any time after two years from the date of approval or the expiration date of any extension granted in accordance with the Municipal Code, the City may require a noticed public hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. If the authorized agency finds that a good faith intent to proceed has not been demonstrated, the application shall be deemed expired as of the date of approval (or the expiration date of any extension). The determination of the authorized agency may be appealed to the City Council within 15 calendar days of the date of the determination.

2. The Director may, upon written request by the proponent, grant reasonable extensions of up to a total of two (2) years for the Agriculture Permit; provided no change in City policies has occurred which would be in conflict with the project. A request for such an extension shall be filed with the Director at least fifteen (15) calendar days prior to the expiration of the Agriculture Permit, together with the required application fee. Upon proper filing of an application for extension, public notice shall be made according to the provisions of Chapter 30.01 as modified by this Chapter. A public hearing is not required.

M. Suspension or Revocation of Agriculture Permit

1. The Director shall suspend any Agriculture Permit and issue no certificate of occupancy if the project is not constructed in compliance with the Agriculture Permit. The notice of suspension shall be mailed to the proponent by certified mail and posted on the project site and regular public notice shall be provided.

2. The suspension of the Agriculture Permit and the suspension of all related permits shall be lifted by the Director if:

- a. The applicant has completed all necessary changes to bring the project into compliance with the original Agriculture Permit, or with the Agriculture Permit as amended by an appeal or modification; or
- b. The final appeals body has determined that no violation of the Agriculture Permit exists.
- c. Additional conditions may be imposed as a condition of lifting the suspension.

3. Following public notice, a suspended Agricultural Permit may be revoked by the Director when the responsible party cannot demonstrate the ability to resolve the issues resulting in the suspension involving non-compliance with conditions of the entitlement.

N. Reapplications. At least one (1) year shall have elapsed since the effective date of a disapproval of an application before filing a new application seeking substantially the same Agriculture Permit for any of the same property.

O. Appeals. Any person aggrieved by a final determination made under the authority of this Section may seek review by filing an appeal pursuant to the procedures within Chapter 1.12 of the Municipal Code.

- 1. A final determination by the Director shall be appealed only to the City Council.

STAFF COMMENTS: Staff has added a new Chapter 30.33 Urban Agriculture to Title 30 of the Municipal Code.

EMC Chapter 30.32 Ecological Resource/Open Space/Parks

30.32.010 Development Standards

A. Because use of land within the Ecological Resource/Open Space/Parks zone is restricted to limited public activities and facilities, all forms of development other than essential utility lines are required to obtain a conditional use permit.

In addition, conditionally permitted uses within coastal zone ecological resource areas designated ER/OS/PK shall be restricted to Agricultural and Horticultural Production uses (limited to aquaculture*), Community Garden (limited to improved and unimproved park sites), Public Educational Institution uses (limited to nature centers or interpretive facilities), Fish Hatchery uses (limited to aquaculture), Land Reclamation Project uses (limited to restoration projects), Parks and Recreational Area uses (limited to public uses) and Public Recreational Facility uses only. (Ord. 95-04)

*Aquaculture operations shall be land-based and shall not require intake or discharge from coastal waters. The operations shall use closed loop circulation systems and must use municipal water and sewer. In addition, operations shall be planned, sited, designed and managed to protect the quality and biological productivity of coastal waters, including the ocean, rivers, streams, wetlands, estuaries, lakes, and groundwater.

STAFF COMMENTS: Staff has revised Section 30.32.010A to allow a community garden on improved and unimproved park site within the ER/OS/PK zone.

Staff has also added language recommended by the Coastal Commission to protect coastal waters.

EMC Chapter 30.48 Accessory Uses

30.48.040 Residential and Agricultural Zones.

N. Roadside Sales of Agricultural Products. Operation of a stand, not to exceed an area of 200 square feet, for the display and sale, by the occupant of the premises, of agricultural products produced on the premises. Agricultural products produced off-site may be displayed and sold from said stand. Said stand to be located not nearer than 15 feet to any street or highway, and provided further that such stands shall be permitted only in those zones subject to ~~a minor use permit~~ an Agriculture Permit.

Z. Temporary Food Stand. Temporary food stands for sale of agricultural products or cottage foods as defined by state law by the resident(s) are permitted as an activity of limited duration (12 hours a week during daylight hours) and may involve the placement of non-permanent structures (e.g., portable furniture) not exceeding a maximum of 120 square feet in sale/display area. Structures shall not create a nuisance, obstruction or hazard and shall not displace required parking for other uses on the site.

STAFF COMMENTS: Staff has revised Section 30.48.040 N to allow roadside sales of agricultural products with an Agriculture Permit rather than a Minor Use Permit.

Staff has also included Section 30.48.040Z, which allows temporary food stands as an accessory use in Residential and Agricultural Zones.

EMC Chapter 30.54 Off-Street Parking

Agricultural

Horticulture 1 space per 2 acres plus parking for other uses on site based on use.
 Agricultural Roadside Stands 5 spaces.
Community Garden No parking required if on-street parking is available within 400 feet.
 Greenhouses 3 spaces per acre plus parking for other uses in accord with this schedule.

STAFF COMMENTS: Staff has revised Section 30.54 to clarify that no parking is required for a community garden if on-street parking is available within 400 feet.

EMC Chapter 30.55 Animal Regulations

30.55.020D Animal Activity Matrix

| ACTIVITY | ZONES | | | | | | |
|--|-----------------|-----------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| | RR | RR-1 | RR-2 | R-3 | R-5 | R-8 | RS-11 |
| 6. Small Animal Raising (includes poultry) | | | | | | | |
| A. 10 maximum | P | P | P | P | P | P | P |
| B. 11-25 maximum | P | P | P | Cm A | Cm A | Cm A | Cm A |
| C. 26-100 maximum | Cm A | Cm A | Cm A | Cm A | Cm A | X | X |
| D. Roosters – Maximum 2 | P | P | P | P | P | P | X |
| 8. Specialty Animal Raising | | | | | | | |
| A. Bees | P ¹ | P ¹ | X P¹ |

X: Not Permitted
 P: Permitted
A: Agriculture Permit
 Cm: Minor Conditional Use Permit
 C: Major Conditional Use Permit

¹ Tier A applies to all single family residential zones. Tier B applies to RR and RR-1 Zones and requires an Agriculture Permit. Tier C applies to RR Zone and requires an Agriculture Permit. See Section 4.04.020F for additional information regarding the tiered regulations for beekeeping.

STAFF COMMENTS: Staff has revised Section 30.55.020D (Animal Activity Matrix) to allow small animal raising

with an Agriculture Permit rather than a Minor Use Permit where required.

In addition, staff has revised bees to allow beekeeping in all single-family residential zones. A footnote has been included to refer the reader to Section 4.04.020F for information regarding the tiered regulations for beekeeping.

EMC Chapter 30.55 Animal Regulations

30.55.030 Enclosure Requirements.

Enclosures containing the animal-related uses described in this chapter includes pens, coops, hutches, stables, barns, corrals, and similar structures and shall be subject to the following requirements:

- A. All enclosures must be at least 35 feet from any dwelling unit on an adjacent lot.
- B. All enclosures shall be required to maintain a 100 foot buffer from all wetland areas and a 50 foot buffer from riparian wetland areas per Section 30.34.040B3 of the Encinitas Municipal Code.
- BC. The keeping of animals shall not be permitted in the required front or street sideyard setback areas for main buildings, unless the lot on which the animals are kept is larger than half an acre or located in RR zones.
- CD. All enclosures shall be adequate to contain the animals intended to be enclosed and in all cases animals shall be contained within the boundaries of the property on which they are housed. Said animals shall not impact properties that contain environmentally sensitive areas.
- DE. All excrement produced by said animals shall be disposed of on a regular basis so as to control flies and odor.
- EF. Low voltage electrical fencing is permitted for containment of large animals subject to the following regulations:
 - 1. Electrical fencing may be maintained on the property line at a maximum of six feet in height. When the electrical fence is adjacent to a public road or access easement, the electrical fence shall be located on the inside of a non-electrical fence.
 - 2. Permits shall be obtained from the Building Department unless exempt. UL (Underwriters Laboratory) approved and other recognized agencies approved electrical fencing is exempt from permits.
 - 3. Appropriate signage shall be posted to give notice of the electrical fencing.

STAFF COMMENTS: Staff has revised Section 30.55.030 (Enclosure Requirements) to include language recommended by the Coastal Commission to protect sensitive habitat.

EMC Chapter 30.80 Coastal Development Permit

30.80.020 Authority to Grant Permit.

A. The Director of Planning and Building (hereinafter “Director”) shall have authority to render a final determination for coastal development permits on the following application types:
(Ord. 2003-08).

- 1. Minor Use Permits
- 2. Minor Variances
- 3. Tentative Parcel Maps
- 4. Waivers of Municipal Code Section 30.16.010B-10
- 5. Agriculture Permits
- 56. Administrative Design Review Permits as follows:

30.80.080B Public Hearing by Authorized City Agency. The authorized agency shall hold a public hearing on coastal development permit requests or amendments to existing permits if the associated discretionary actions by the City otherwise require a public hearing, or if the location of the proposed project is within the area subject to appeal to the Coastal

Commission pursuant to Section 30.80.030(A)3 of this code. The hearing shall be scheduled and noticed as described in Chapter 30.01 of this Code except as modified by the following: (Ord. 96-07)

04-10

A. In addition to the requirements for contents of the notice of public hearing described in Chapter 30.01, the notice shall also state that the proposed project is in the Coastal Zone, contains a request for issuance of a coastal development permit, whether it includes development which is appealable to the California Coastal Commission and the system for local and Coastal Commission appeals, including any local fees required.

B. In addition to the requirements for ways in which the notice of public hearing is provided is described in Chapter 30.01, the notice shall be sent as first class mail at least 10 calendar days prior to the public hearing to the applicant or authorized agent; interested persons (all persons who have requested to be on the mailing list for that development project or for coastal decisions within the City); residents (occupants) and property owners within 500 feet (three-hundred (300) feet for projects requiring an Agriculture Permit) of the perimeter of the parcel on which the development is proposed, and the Coastal Commission. (Ord. 2006-06)

STAFF COMMENT: Staff has revised Section 30.80.080A to clarify that that the Director can render a determination for a CDP for an Agriculture Permit. Staff has also revised Section 30.80.080B to clarify that Agriculture Permits shall require a 300 foot radius notice rather than the current 500 foot radius notice for all other projects.