

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
3111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036



Fr 4a

**DATE:** August 19, 1998

**TO:** COMMISSIONERS AND INTERESTED PERSONS

**FROM:** PETER DOUGLAS, EXECUTIVE DIRECTOR

**SUBJECT:** EXECUTIVE DIRECTOR'S DETERMINATION that the City of Encinitas' actions, certifying Local Coastal Program Amendment No. 2-97, approved with suggested modifications, are legally adequate (for Commission review at its meeting of September 8-11, 1998)

**BACKGROUND**

At its February 6, 1998 meeting, the California Coastal Commission certified, with suggested modifications, the City of Encinitas Local Coastal Program Amendment No. 2-97. The amendment revises the City's certified Implementing Ordinances to allow time-share projects as a permitted use within various visitor-serving commercial zoned areas subject to certain development regulations. In addition, the amendment authorizes seasonal sales lots as temporary uses, revises various development standards within the Downtown Encinitas Specific Plan, deletes all references to Community Advisory Boards and revises a number of zoning code provisions pertaining to definitions, permitted uses, accessory structures and parking and sign standards.

By their action adopting Ordinance No. 98-11 on May 27, 1998, the City Council acknowledged and accepted all the Commission's suggested modifications. As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine if the action of the City of Encinitas is legally sufficient to finalize Commission review of the LCP amendment. The City's actions have been reviewed and determined to be adequate by the Executive Director. Section 13544 of the California Code of Regulations then requires that this determination be reported to the Commission for its concurrence.

**RECOMMENDATION**

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

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September 14, 1998

Honorable Lou Aspell, Mayor  
City of Encinitas  
505 South Vulcan Avenue  
Encinitas, CA 92024

Re: Certification of the City of Encinitas LCP Amendment #2-97

Dear Mayor Aspell:

The California Coastal Commission has reviewed the City's Ordinance No. 98-11, together with the Commission's action on February 6, 1998, certifying, with suggested modifications, Amendment No. 2-97 to the City's Local Coastal Program. This amendment primarily addresses various revisions to the City's certified Implementation Plan including a revision to allow time-share projects as a permitted use within various visitor-serving commercial zoned areas subject to certain development regulations.

In accordance with Section 13544 of the California Code of Regulations, I have made the determination that the City's actions are legally adequate; and the Commission has concurred at its meeting of September 8-11, 1998. By its actions on May 27, 1998, the City has formally acknowledged and accepted the Commission's certification of this amendment, including all suggested modifications, which require that time-share projects include a provision to assure that 25 percent of the units are made available for the general public at all times and that clarify the coastal development permit requirements for seasonal sales lots.

In conclusion, I would like to extend our appreciation to you and all other elected or appointed officials, staff and concerned citizens for working in a cooperative fashion on this matter. We remain available to assist you and your staff in any way possible as you continue to implement the City's Local Coastal Program.

Sincerely,

Peter Douglas  
Executive Director

**ORDINANCE 98-11**

**AN ORDINANCE OF THE CITY OF ENCINITAS, CALIFORNIA  
AMENDING CHAPTERS 30.20 AND 30.46 OF THE ENCINITAS MUNICIPAL  
CODE AS PREVIOUSLY AMENDED BY ORDINANCE 97-17.**

**(CASE NO. 97-70 ZOA/LCPA)**

The City Council of the City of Encinitas, California does ordain as follows:

**SECTION ONE:**

The negative declaration adopted on October 8, 1997 with Ordinance 97-17 fulfills the requirements of the California Environmental Quality Act, Section 15070 for the minor amendments made by the adoption of this Ordinance. The City Council hereby determines and finds that, in its independent judgment, the aforesaid environmental documentation is complete and sufficient for the consideration of this Ordinance.

**SECTION TWO:**

The Encinitas Municipal Code is amended to read as follows:

See Attachment "A"

**SECTION THREE:**

This ordinance was introduced on May 13, 1998.

**SECTION FOUR:**

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 LCP Amendment #2-97.

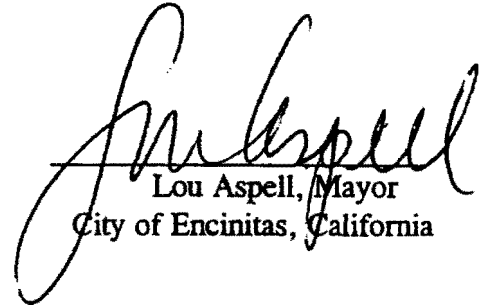
PASSED AND ADOPTED this 27th day of May, 1998 by the following vote, to wit:

AYES: Aspell, Bond, Cameron, Davis, DuVivier

NAYS: None

ABSTAIN: None


ABSENT: None



Lou Aspell, Mayor  
City of Encinitas, California

ATTESTATION AND CERTIFICATION:

I hereby certify that this is a true and correct copy of Ordinance 98-11 which has been published pursuant to law.



Deborah Cervone, City Clerk/Director of  
Legislative Services

ATTACHMENT A to Ordinance 98-11:

The text as approved by the Planning and City Council is shown below; the modification to the language by the Coastal Commission is shown in **bold and underlined**.

(b) Section 30.20.020, is added to read as follows:

B. TIME-SHARE PROJECTS. Time-share projects as defined in Section 30.04 of this Code shall be subject to the following regulations in addition to the development standards and design criteria of the Commercial Zone as established by this chapter:

1. All time-share projects shall require a Major Use Permit. In addition to the mandatory findings required for the issuance of a Conditional Use Permit under Chapter 30.74 (Use Permits), the authorized agency shall also find:

a. That the time-share project is located in reasonable proximity to an existing resort or public recreation area, and therefore can financially and geographically function as a successful time-share project, and the project will thus not be disruptive to existing or future uses in the surrounding neighborhood.

b. All proposals for time-share projects shall be accompanied by a detailed description of the methods to be employed to guarantee the adequacy, stability and continuity of a satisfactory level of management and maintenance. A Management and Maintenance Plan shall be approved as, and made a part of, the permit for the project and shall be recorded in the County Recorder's Office referenced to the subject property to ensure to successors in interest.

c. For proposals in the Coastal Zone, the Management and Maintenance Plan shall also demonstrate how a reasonable number of units within the time-share resort project will be made available to the general public for reasonably priced transient overnight accommodations during the course of each calendar year. The Plan shall include an aggressive marketing program to maximize exposure of rental possibilities to a broad spectrum of the public. **For properties located in all visitor serving commercial zones within the coastal zone, the specific criteria for the aggressive marketing program would be related to the specific project and would be reviewed and conditioned as part of the Coastal Development Permit application to ensure 25% of the units are**

**made available for the general public at all times. The marketing strategy would include a specific program to make sure that all vacant units are made available to the general public.**

d. A sales plan shall address the time, location and methods that will be used to sell the time-share resort estates or uses. Factors to be defined in the plan shall include, but are not limited to: the location, length, and marketing methods that will be used. The sales plan shall include such information as the Director requests for the purpose of determining that the sales effort of the project will not create a traffic or safety problem and will not otherwise be a nuisance to the neighborhood.

2. The maximum time increment for recurrent exclusive use of occupancy of a time-share unit shall be no more than thirty (30) consecutive days nor more than a total of sixty (60) days in any twelve (12) month period. However, a time-share project may include a permanent on-site management residence.

3. Approval of a time-share project shall include approval to operate a hotel in the event that the project cannot be successfully marketed as a time-share project.

(b) Section 30.46.130, is added to read as follows:

30.46.130 Seasonal Sales Lot. The temporary sales of holiday season products, such as holiday trees, pumpkins, and closely related agricultural and floracultural products may be permitted in compliance with the following provisions:

A. Location. A seasonal sales lot may be located on any property in a commercial or residential zone which abuts a street, other than a "local street", identified on the Circulation Element Map of the City of Encinitas pursuant to a site plan approved by the Community Development Director and a Seasonal Sales Solicitation Permit issued by the City Clerk.

B. Duration. The period of operation of a seasonal sales lot shall not exceed 45 days prior to the holiday. The property shall be cleared and restored to its condition prior to the sales lot within 3 days after the holiday.

C. Coastal Development Permit. The temporary sales of holiday products is exempt from Coastal Development Permit requirements **if it meets the definition of a "temporary event/use" under this Chapter**, unless it meets any of the criteria in Section 30.46.035 of this Chapter requiring such permit.

D. Seasonal sales lots shall be maintained and operated in a manner consistent with other sections of this Code, the Uniform Building Code, the Uniform Fire Code, the Uniform Electric Code, and the regulations of the Department of Health Services for the County of San Diego.

E. Seasonal sales lots shall comply with Chapter 30.60 regarding any on-site signage.

F. A temporary trailer or recreational vehicle may be allowed, for the duration of the seasonal use, on the lot as an on-site security or sales office with the appropriate building, fire and health permits.