

**CALIFORNIA COASTAL COMMISSION**

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



April 16, 2009

**W15b****TO: COMMISSIONERS AND INTERESTED PARTIES****FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR****SUBJECT: EXECUTIVE DIRECTOR'S DETERMINATION** that the action by the City of Encinitas, certifying the City's Local Coastal Program Amendment No. 1-08 (Grading Ordinance Revisions), is adequate to effectively certify its local coastal program (for Commission review at its meeting of May 6-7, 2009)**BACKGROUND**

At its January 8, 2009 meeting, the Coastal Commission certified, with suggested modifications, the City of Encinitas Local Coastal Program Amendment #1-08, regarding the revisions to the City's grading ordinance (Encinitas Municipal Code Chapter 23.24) intended to strengthen and refine existing regulations related to erosion controls and add requirements for Best Management Practices (BMPs) consistent with the current Regional Water Quality Control Board (RWQCB) Order No. R9-2007-01 and the General Permit for Discharges of Storm Water Associated with Construction Activity Order No. 99-08-DWQ (SWRCB). By its action adopting Resolution Nos. 2009-09 on February 11, 2009 and 2009-03 on February 25, 2009, the City Council has acknowledged and accepted all of the Commission's suggested modifications. The modifications assure that the standard for grading permits is the LCP along with the requirements of the RWQCB/SWRCB Orders. The modification also includes a correction to a date inadvertently cited in the BMP Manual. The City already has coastal development permit authority over this geographic area and will continue issuing permits consistent with the local coastal program as amended.

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

**RECOMMENDATION**

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

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**\*\*DATE AFTER HEARING\*\***

Mayor Maggie Houlihan  
City of Encinitas  
505 S. Vulcan Avenue  
Encinitas, Ca 92024

RE: Certification of the City of Encinitas Local Coastal Program Amendment  
No. 1-08(Revisions to Grading Ordinance)

Dear Mayor Houlihan:

The California Coastal Commission has reviewed the City's Resolution Nos. 2009-03 and 2009-09 together with the Commission's action of January 8, 2009 certifying City of Encinitas Local Coastal Program Amendment #1-08 pertaining to revisions to the City's grading ordinance and Best Management Practices Manual Part II. In accordance with Section 13544 of the Commission's Code of Regulations, I have made the determination that the City's actions are legally adequate, and the Commission has concurred at its meeting of May 6-8, 2009.

By its action on February 11 and 25, 2009, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications assure that the standard for grading permits is not only the State and Regional Water Quality Control Board Orders R9-2007-1 and 99-08-DWQ, but is also the LCP. The modifications also include a correction to a date inadvertently cited in the BMP Manual. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

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

Sincerely,

Peter Douglas  
Executive Director

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By its action on February 11 and 25, 2009, the City has formally acknowledged and accepted the Commission's certification of the Local Coastal Program Amendment including all suggested modifications. The modifications assure that the standard for grading permits is not only the State and Regional Water Quality Control Board Orders R9-2007-1 and 99-08-DWQ, but is also the LCP. The modifications also include a correction to a date inadvertently cited in the BMP Manual. The City is already issuing coastal development permits in conformance with the certified local coastal program for this area.

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

Sincerely,

Peter Douglas  
Executive Director

RECEIVED

MAR 04 2009

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Ordinance 2009-03, an ordinance to amend Chapter 23.24 of the Municipal Code and the Local Coastal Program to modify Section 23.24.230(B) to be consistent with California Coastal Commission recommendation.

### ORDINANCE 2009-03

#### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA AMENDING ENCINITAS MUNICIPAL CODE CHAPTER 23.24 TO BE CONSISTENT WITH CALIFORNIA COASTAL COMMISSION MODIFICATIONS TO SECTION 23.24.230(B)

WHEREAS, the City Council adopted Ordinance 2008-03 (to amend Chapter 23.24, Grading) on March 12, 2008 and the amendments were submitted to the California Coastal Commission on April 9, 2008 for the purpose of amending the Encinitas Local Coastal Program; and

WHEREAS, the California Coastal Commission approved, subject to minor modifications, the amendments to the Encinitas Local Coastal Program on January 8, 2009; and

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

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

Chapter 23.24 of the Encinitas Municipal Code is hereby amended to read as follows:

(underlining represents new language as adopted by California Coastal Commission)

B. Jurisdictions of Other Agencies. Permits issued under the provisions of this code shall not relieve the owner of the responsibility for securing permits or licenses that may be required from other City departments or other governing agencies. All grading plans and grading operations shall comply with the State Water Resources Control Board regulations in effect at the time of the grading.

Within the Coastal Zone, any permits issued pursuant to this Chapter shall, at the minimum, comply with the San Diego County Municipal Stormwater NPDES Permit (San Diego RWOCB Order No. R9-2007-0001) dated January 24, 2007 and the General Permit for Discharges of Storm Water Associated with Construction Activity (99-08-DWQ). All permits issued within the Coastal Zone pursuant to this Chapter must also comply with all other provisions of the certified LCP.

**SECTION 2: ENVIRONMENTAL FINDING:**

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

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

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

This Ordinance was introduced on February 11, 2009 and will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.


PASSED AND ADOPTED this 25<sup>th</sup> day of February, 2009 by the following vote, to wit:

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

NAYS: None.

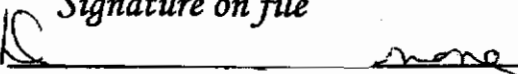
ABSTAIN: None.

ABSENT: None.

*Signature on file*  
  
\_\_\_\_\_  
Maggie Houlihan,  
Mayor of the City of Encinitas, CA.

**ATTESTATION AND CERTIFICATION:**

I hereby certify that this is a true and correct copy of Ordinance 2009-03, which has been published pursuant to law.

*Signature on file*  
  
\_\_\_\_\_  
Deborah Cervone, City Clerk/Director of  
Legislative Services

Resolution 2009-09 to amend the Best Management Practices Manual, Part II, page 3, to be consistent with California Coastal Commission recommendation

## **RESOLUTION 2009-09**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA AMENDING THE BEST MANAGEMENT PRACTICES MANUAL, PART II TO BE CONSISTENT WITH CALIFORNIA COASTAL COMMISSION MODIFICATIONS TO PAGE 3 OF THE MANUAL**

WHEREAS, the City Council approved Resolution 2008-23 on March 26, 2008 in order to adopt The Best Management Practices Manual, Part II, and the Manual was submitted to the California Coastal Commission on April 9, 2008 for the purpose of being added by reference to the Encinitas Local Coastal Program; and

WHEREAS, the California Coastal Commission approved, subject to minor modifications, the amendments to the Encinitas Local Coastal Program on January 8, 2009; and

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

#### **SECTION 1: Page 3 of The Best Management Practices Manual, Part II is hereby amended to read as follows:**

(underlining represents new language as adopted by California Coastal Commission)

The Municipal Storm Water National Pollutant Discharge Elimination Systems (NPDES) Permit (Municipal Permit) R9-2007-0001, issued on ~~February 21, 2004~~ January 24, 2007 to the City of Encinitas, the County of San Diego, the Port of San Diego and 17 other cities in the region of the San Diego Regional Water Quality Control Board (Regional Board), requires the development and implementation of storm water regulations addressing storm water pollution issues in development planning and construction associated with private and public development projects...

#### **SECTION 2: ENVIRONMENTAL FINDING:**

The City Council, in their independent judgment, finds that the adoption of the Amendments will be exempt from Environmental Review pursuant to General Rule 15061 (b) (3) since there would be no possibility of a significant effect on the environment because

the amendments will not directly result in development; any development as a result of the amended language will be subject to CEQA review and analysis.

**SECTION 3: EFFECTIVE DATE:**

This resolution was adopted on February 11, 2009 and will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.


PASSED AND ADOPTED this 11<sup>th</sup> day of February 2009 by the following vote, to wit:

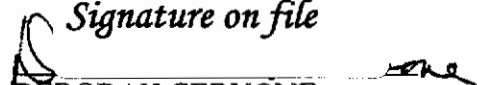
AYES: Barth, Dalager, Houlihan, Stocks.

NAYS: None.

ABSTAIN: None.

ABSENT: Bond.

*Signature on file*  
  
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Maggie Houlihan,  
Mayor of the City of Encinitas, CA.

ATTEST  
*Signature on file*  
  
-----  
DEBORAH CERVONE  
City Clerk