

## **APPENDIX H**

### **Conforming and Ancillary General Plan and Municipal Code Amendments**

## Appendix H

The proposed General Plan and Municipal Code amendments included in Appendix H are summarized below:

1. Amend the General Plan Land Use Element for conformance and add language that supports the ~~floating~~ At Home in Encinitas (AHE) zone program; and amend goals (2 through 4) and associated policies for growth management program modification.
2. Amend the Community Character and Voters' Rights Initiative portion of the Land Use Element and Zoning Code Chapter 30.00 to modify building height limitations and authority to grant land use change approvals in very specific circumstances.
3. Zoning Code Amendments
  - a) Amend Zoning Code Chapter 23.08 to allow additional authority to grant permit.
  - b) Amend Zoning Code Section 30.04.10 to add a ~~Floating~~ At Home in Encinitas Zone definition.
  - c) Amend Zoning Code Section 30.34.30 to allow additional authority to grant permit.
  - d) Amend Zoning Code Chapter 30.72 to allow additional authority to grant permit.
4. Specific Plan Amendments (to establish a foundation for ~~Floating~~ At Home in Encinitas Zone implementation)
  - a) North 101 Corridor Specific Plan
  - b) Encinitas Ranch Specific Plan
  - c) Downtown Encinitas Specific Plan
  - d) Cardiff Specific Plan
5. Noise Element Amendment

**GOAL 2: The City should manage slow, orderly growth in accordance with a long-term plan which protects and enhances community values.**

POLICY 2.1: ~~Establish a growth management plan which phases development through building permit limitations, public facility availability, or other methods.~~ Prepare, maintain, and periodically update public facility master plans that are based on adopted growth projections through coordination of appropriate city departments and agencies to anticipate the demand for services.

POLICY 2.2: Discourage development that sacrifices long-term goals in preference to short-term needs.

POLICY 2.3: Growth will be managed in a manner that does not exceed the ability of the City, special districts and utilities to provide a desirable level of facilities and services. (Coastal Act/30250)

POLICY 2.4: Require developments to pay the capital costs of public facilities and services to serve those developments. Seek to require developments outside the City which impact City facilities and services to pay their share of the costs for improvements of City facilities and services. For development within the City, seek to require those developments to pay their fair share of costs for such facilities and services.

POLICY 2.5: Promote annexation of only those areas which will enhance the City.

POLICY 2.6: Any subdivision created by lot averaging should not be further subdivided.

POLICY 2.7: Implement mechanisms to ensure the preservation of significant environmental areas of the City. These mechanisms might include establishing development standards encouraging developers to maximize open space, transfers of development rights (TDR's), land banking, purchase, etc. (Coastal Act/30240)

POLICY 2.8: Development shall not be permitted where it will result in significant degradation of ground, surface, or ocean water quality, or where it will result in significant increased risk of sewage overflows, spills, or similar accidents. (Coastal Act/30231)

POLICY 2.9: Consider the establishment of facilities development funds for service needs of the City and its districts to which all development will contribute.

POLICY 2.10: Development shall not be allowed prematurely, in that access, utilities, and services shall be available prior to allowing the development. (Coastal Act/30252)

POLICY 2.11: Incremental development of large properties shall not be permitted without a master plan and environmental analysis of the full potential development. (Coastal Act/30250)

**GOAL 3: To assure successful planning for future facilities and services, and a proper balance of**

**uses within the city, the City of Encinitas will establish and maintain a maximum density and intensity of residential and commercial uses of land within the City which will:**

**(a) provide a balance of commercial and residential uses which creates and maintains the quality of life and small-town character of the individual communities; and**

**(b) protect and enhance the City's natural resources and indigenous wildlife.**

POLICY 3.1: For purposes of growth management, to ensure that existing desirable community character is maintained and to ensure that facilities planning is economical and comprehensive, the ultimate buildout figure for residential dwelling units will be determined by ~~the utilizing the total mid-range~~ density figure of the Land Use Element, which shall be derived from the total of all land use acreage devoted to residential categories, ~~assuming a mid-range buildout density overall.~~

POLICY 3.2: The City will designate land use categories/zones for residential development which provide housing opportunities for all segments of society at densities consistent with the goals of this Element.

POLICY 3.3: The City will designate land use categories/zones for commercial development which provide for the commercial needs of the community with use and intensity regulations consistent with the goals of this Element.

POLICY 3.4: The City will allow those commercial uses which are necessary to satisfy the current and projected needs of the individual communities as indicated on the Land Use Map and under the policies of this plan.

POLICY 3.5: Commercial areas/zones shall be designated to avoid undue concentrations of commercial development which would increase traffic to levels beyond the current and projected capability of the City's services and facilities to deal with the increased traffic.

POLICY 3.6: Except where overriding considerations are found to exist, property will not be designated so as to allow or otherwise encourage commercial development along circulation roads in a continuous or "strip" manner.

POLICY 3.7: With the exceptions described in Policy 3.12, once acknowledged as being consistent with the General Plan and Local Coastal Program, the allowable maximum density of any property designated for residential use shall not be increased except by the affirmative vote of a majority of those voting in the election approving the proposed increase.

POLICY 3.8: With the exceptions described in Policy 3.12, once acknowledged as being consistent with the General Plan and Local Coastal Program, property designated/zoned for non-residential uses shall

not be redesignated/rezoned to allow residential uses except by the affirmative vote of a majority of those voting in the election approving the proposed change.

POLICY 3.9: With the exceptions described in Policy 3.12, once acknowledged as being consistent with the General Plan and Local Coastal Program, property designated/zoned for residential use shall not be redesignated/rezoned to any non-residential use except by the affirmative vote of a majority of those voting in the election approving the proposed change.

~~POLICY 3.10: With the exceptions described in Policy 3.12, once acknowledged as being consistent with the General Plan and Local Coastal Program, property designated/zoned for non-residential use shall not be redesignated/rezoned to allow more non-residential uses or a greater intensity of use except by the affirmative vote of a majority of those voting in the election approving the proposed change.~~

POLICY 3.10~~1~~: In determining whether to approve a proposed residential or commercial project and when to allow proposed projects to be constructed, the City shall consider the extent to which the proposed project complies with the goals and policies of this Element and the implementing zoning regulations.

POLICY 3.11~~2~~: The following may be considered as exceptions to the requirements for voter approval for specified general plan land use map amendments:

1. Minor adjustments in land use boundaries to correctly reflect property or development site boundaries, which adjustments do not substantially change intended area development potential - as approved by Council by unanimous vote.
2. Changes to land use designations to correct (a) map omissions and (b) mapping errors which are clearly demonstrated to be errors contrary to the intent of the General Plan - as approved by a unanimous Council vote.
3. A change from any land use designation to the Ecological Resource/Open Space/Parks designation, when property has been purchased or land development rights have been secured for land for open space or parks purposes - as approved by a unanimous Council vote.
4. ~~Minor land use designation changes when approved by affirmative vote of four or more City Council members. For purposes of this paragraph, "minor" is defined as changes for which certified environmental review per the California Environmental Quality Act has determined that there will be no unmitigable significant negative environmental impacts, and one of the following apply:~~

~~(a) — Exception for Decrease in Intensity:~~

~~The change is to a category of lower land use intensity or density than the existing category that results in a reduction in intensity. For purposes of this determination the following hierarchy of categories, from higher to lower, is established: Light Industrial, General Commercial, Visitor-Serving Commercial, Transportation Corridor, Local Commercial, Public/Semi-Public, Office Professional, Residential 25, Residential 15, Residential 11, Mobilehome Park, Residential 8, Residential 5, Residential 3, Rural Residential 2, Rural Residential 1, Rural Residential, Ecological Resource/Open Space/Parks.~~

~~(b) Exception for Residential Density:~~

~~The change applies to 5 acres of land area or less, and is a change from a non-residential to a residential category, or from a residential to another higher density residential category, which would result in the allowance of ten or fewer additional dwelling units (prior to consideration of any density bonus) for the 5 acre site. The change shall also be determined to be compatible with, and generally not exceeding the density of, surrounding planned land use residential densities.~~

~~A change in any land use designation which is required to secure or maintain compliance with State Housing Element law. Under this exception, the land use change is required to assist the accommodation of future housing needs in the lower income category as defined by State law. The City Council is authorized to make any and all necessary amendments with a four-fifths super majority vote of any other lesser super majority vote should less than five Council members be eligible to vote while maintaining quorum.~~

~~(c) Exception for Change Within Land Use Class:~~

~~The change applies to 5 acres of land area or less, and is a change from one land use category to another when both are within the same class of categories. For purposes of this determination the following classes of categories are established:~~

- ~~1—Rural Residential, Rural Residential 1, Rural Residential 2~~
- ~~2——Residential 3, Residential 5, Residential 8~~
- ~~3——Residential 11, Residential 15, Residential 25~~
- ~~4——Office Professional, Local Commercial~~
- ~~5——Visitor-Serving Commercial, General Commercial~~

~~POLICY 3.13: The following establish exceptions to the fixed annual allotment of residential building permits established by this Element.~~

1. ~~Vested Rights~~

~~The fixed annual allotment as established in the Land Use Element shall apply to all properties and projects covered by its terms except it shall not apply to any development project which has obtained a vested right as of the effective date of this Plan. For purposes of this provision, a vested right shall have been obtained only if each and all of the following criteria are met:~~

- ~~a. The proposed project has received a building permit or where no building permit is required, final discretionary approval.~~
- ~~b. Substantial expenditures or documented, non-cancellable liabilities have been incurred in good faith reliance on the permit or final discretionary approval.~~
- ~~c. Substantial construction has been performed in good faith reliance on the permit or final discretionary approval.~~

~~The substantiality of expenditures or liabilities incurred and of construction performed and the questions of whether or not such expenditures, liabilities and construction were in good faith are questions of fact to be determined on a case-by-case basis by the City following application by the developer. Actions taken by a developer to speed up or expedite a development project with knowledge of the pendency of this provision shall not be deemed to be in good faith and shall not qualify for a vested right. Phased projects shall be considered for exemption on a phase by phase basis to the extent permitted by California law.~~

2. ~~Vesting Tentative Maps or Other Approval Given Vested Rights~~

~~In addition to the foregoing, vesting tentative maps (and other approvals given vested rights) receiving final approval prior to the effective date of this Plan shall be exempt from the residential allocation system, so long as the number of units authorized by such an approval shall be counted against the annual limits of the fixed annual allotment upon issuance of building permits. Such vesting approval shall not be authorized by the City after the effective date, unless expressly conditioned to assure compliance with this provision.~~

3. ~~Single Family Homes~~

~~The construction of one individual dwelling unit conforming to zoning on a pre-existing vacant, legal lot of record which was established as legal lot as of the effective date this Plan was filed with the City clerk, shall be exempt from the current fixed annual allotment. The units so exempted shall be counted against the City's total build-out capacity in the calculation of the annual allocation for the following year.~~

4. ~~Existing Building Permits~~

~~In addition, outstanding building permits, as of the effective date of this Plan, shall be exempt from the fixed annual allotment.~~

5. ~~One Unit Per Five Acres~~

~~A property owner proposing to construct more than one dwelling unit, already approved by city process, but unable to qualify for the current year's allocation (under residential allocation system) may be allowed to construct no more than one dwelling unit per five acres. The number of units so exempted shall not be counted against the annual allocation figure; however, they shall be counted against the City's total build out capacity in the calculation of the annual allocation for the following year.~~

POLICY 3.124: A public vote shall be required on all City Council approved General Plan updates that are comprehensive in nature, and shall become effective only when a majority of those voters who cast ballots vote for the change. A comprehensive General Plan update shall be a City-sponsored work program titled as such that substantially changes and/or re-adopts the text and maps of the existing elements.

**GOAL 4: The City of Encinitas will ensure that the rate of residential growth: (a) does not create a demand which exceeds the capability of available services and facilities; (b) does not destroy the quality of life and small town character of the individual communities; (c) does not exceed a rate which excludes the public from meaningful participation in all aspects of land use decision making regarding proposed projects; and (d) provides the City with the ability to plan ahead for the location, timing and financing of required services and facilities; and (e) does not exceed an annual allotment of dwelling units based on the projected ultimate buildout of dwellings in the City of Encinitas assuming a 25 year buildout period.**

~~POLICY 4.1: A figure will be established annually which will determine the maximum number of dwelling units for which building permits will be issued during the coming year. The annual numerical figure shall be based on a 25-year buildout beginning on January 1, 1989 and ending January 1, 2014. The annual allotment shall be determined by dividing the ultimate buildout figure for dwelling units, determined by mid-range densities, by the number of years remaining in the assumed 25-year buildout period.~~

POLICY 4.12: The City will plan to provide services and facilities concurrent with projected need, sufficient to allow issuance of the maximum annual number of dwelling unit building permits. To guard against an unforeseen shortfall of services or facilities, the City will determine adequacy of services and facilities for each residential development at the discretionary review stage. For dwellings not subject to discretionary review, such determination shall be made with the earliest development permit submittal. No unit shall be approved or permitted for which inadequate services or facilities are available.



~~POLICY 4.23: The City will plan to provide processing procedures for proposed development projects that will maximize citizen participation and that will operate at a pace sufficient to allow the maximum annual number of dwelling unit building permits to be issued. Citizen notice of development projects and the opportunity to participate through written and oral testimony and public hearings will be provided at the discretionary and environmental review stages of development, prior to the application of each year's annual dwelling unit allocation limit. Neither the speed of project processing nor the volume of units or projects processed shall exceed that which will allow meaningful citizen participation.~~

~~POLICY 4.4: Whatever the allowable rate of growth is during any particular year, the City's intent is to see housing affordable to lower income households is not constrained. To this end, building permits for dwelling units guaranteed or assured of being affordable to very low and low income households, in amounts equal to the SANDAG determination of the City's regional need for housing for very low and low income households, shall be exempt from the annual allocation limit. The number of dwellings permitted under this exemption in any year shall be included in the tabulation of total dwelling units permitted to date in the calculation of the annual allocation for the following year.~~

~~POLICY 4.5: Development projects involving the construction of 20 or more single-family, residential dwellings may be required to phase the building of the project over several years using no more than 20 building permits per year to achieve the goals and policies of the Element.~~

~~POLICY 4.36: Any land which is annexed to the City will be pre-designated for a land use(s) as a condition of annexation, to a density and use that will be consistent with the small-town quality and character of the City.~~

~~POLICY 4.7: There will be no carry-over of unissued residential dwelling unit permits (from the maximum annual number) into the following year. However, if the allotted number are not issued during the current year, they will continue to be counted in the ultimate buildout figure and will be reflected in the fixed annual allocation for the remaining years.~~

~~POLICY 7.10: Both residential and non-residential development shall be limited to a maximum height of two stories and 30 feet. Limited exceptions for non-residential development may be allowed, but only for designated specific sites as developed and adopted through area specific plans. Exceptions may also be made for Medical Complex development projects at the discretion of the City pursuant to conditional use permit applications as provided by the Zoning Code, to allow building heights up to a maximum height of three stories. An exception is also authorized for a public high school with a minimum 10 acre site.~~

~~POLICY 8.3: Residential development on land that has physical constraints shall exclude or discount areas subject to specified constraints from density allowance. Portions of development sites subject to the following constraints shall be excluded from the net lot area used to figure density: floodplains, beaches, permanent bodies of water, significant wetlands, major utility easements, railroad track beds or rights-of-way, and rights-of-way and easements for public/private streets and roads. The remaining net lot~~

area shall then be calculated for density allowance, based on the assigned land use category density range, subject to the following discounts based on site slope:

- ☐ Portions of site 0-25% slope - 100% density;
- ☐ Portions of site 25-40% slope - approximately 50% density allowance;
- ☐ Portions of site 40%+ slope - no density allowance.

These density allowance calculations apply to all land use categories that permit residential development. Density allowance shall be limited to the mid-point of the land use category range, as specified by the zoning code, unless findings can be made that the proposed project excels in design excellence and/or provides extraordinary community benefits. Upon such findings, up to the maximum density level of the range may be allowed. In no case shall less than one dwelling per legal lot be allowed. Notwithstanding the mid-point reference above, future development in the At Home in Encinitas Floating (AHE) Zone is regulated by Chapter 30.36 of the Zoning Code, which allows a maximum density "by-right."

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#### **Floating At Home in Encinitas (AHE) Zone Program**

This category of residential and mixed use land use is characterized by a unique land use designation that is composed of two parts: the current land use under the adopted General Plan (first generation) and new land use pursuant to the Housing Element Update (second generation) "floats" above the existing land use category. The Floating-AHE Zone is intended to implement the At Home in Encinitas (AHE) General Plan land use designation and give property owners more flexibility for future development of their property and consists of a set of pre-approved development rights that allows for multi-family development or mixed use. The Floating-AHE Zone also implements different housing prototypes and design and character contexts.

The Floating-AHE Zone establishes a minimum density to ensure that each project meets affordability requirements, as well as a maximum density to ensure that Encinitas remains a community of modestly-scaled development. In the Floating-AHE Zone, development will provide a density range from a minimum of 20 dwelling units per acre to a maximum of 30 dwelling units per acre as a permitted use. Until an Floating-AHE Zone transition from a first generation to a second generation is activated for a site, the existing land use designation, zoning, and associated rights govern the use and development of the site. Only those sites shown with an AHE Floating-Zone Designator on the Land Use Map are eligible to use the Floating-AHE Zone.

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#### **Floating At Home in Encinitas (AHE) Zone Program**

City land use policy calls for the need to accommodate future housing development and meet RHNA's state housing law compliance for affordability. To reinforce and expand on the City's commitment to affordable housing, developing more complete neighborhoods, and enhancing and preserving the

community's character, the City created an At Home in Encinitas (AHE) ~~Floating~~ Zones Program. The ~~Floating~~ AHE Zone is a unique land use designation that is composed of two parts: the current land use under the adopted General Plan (first generation) and new land use pursuant to the Housing Element Update (second generation "~~floats~~" above the base land use category. The ~~Floating~~ AHE Zone allows property owners to develop under the existing zone (first generation), and maintain all zoning rights and privileges thereto; or should they choose, utilize the new land use (second generation) ~~Floating~~ Zone to create more housing for the community. Once an application for development consistent with the second generation AHE Zone is approved, the previous (first generation) land use policies and zoning can no longer be implemented. The first generation land use policies and zoning are no longer available once this one-way transition is initiated unless a legislative action is approved. The land use and zoning maps will be ministerially updated by clipping out the first generation designation to disclose the transition. Chapter 30.36 of the City's Zone Code establishes the applicability and process for transition.

The ~~Floating~~ AHE Zone is intended to:

1. Implement the At Home in Encinitas General Plan land use designation, which recognizes that relatively few vacant sites suitable for these land uses remain in the City, so the land use designation is purposefully flexible to accommodate a one-way transition from existing first generation uses and development standards to the second generation uses and standards in a manner that allows existing uses and development to thrive until that transition is initiated;
- 1-2. Allow for a moderate increase in residential density and to accommodate a mixture of residential building types and unit sizes;
- 2-3. Enable market-based solutions to the provision of attainable housing;
- 3-4. Meet the state's Regional Housing Needs Assessment (RHNA) rezoning requirements;
- 4-5. Ensure that the vision set forth in the Housing Plan is implemented;
- 5-6. Respond to neighborhood character, be compatible with community specific settings and promote basic best practices in urban design;
- 6-7. Promote infill development and revitalization that is compact and supports pedestrian-friendly development patterns with safe, effective and multi-modal transportation options; and
- 7-8. Contribute to the economic and fiscal sustainability of the City.

This AHE Zone is established, along with the Character Contexts and Design Contexts, which closely relate the Zone to the site's surroundings. Second generation land use designations may include residential or mixed-use, with a minimum of 20 dwelling units per acre and a maximum of 30 dwelling units per acre. ~~Floating~~ AHE zoning districts that may be applied to implement the *At Home in Encinitas* General Plan land use designation are listed below and are determined based on the intended land use in consideration of the community character context. Second generation context combinations allowed:

#### Neighborhood Center

- Shopfront Neighborhood (AHE-S30-N)
- Mixed Use Neighborhood (AHE-X30-N)

- Residential Neighborhood (AHE-R30-N)

#### Village Center

- Shopfront Village (AHE-S30-V)
- Mixed Use Village (AHE-X30-V)
- Residential Village (AHE-R30-V)

#### Main Street Corridor

- Shopfront Main Street (AHE-S30-M)
- Mixed Use Main Street (AHE-X30-M)
- Residential Main Street (AHE-R30-M)

Developers can use the AHE Zone only on those sites labeled with an AHE Zone Designator on the City's Land Use Map in the Land Use portion of the General Plan. A property owner has the discretion to apply the Floating Zone and make their intent known by filing a discretionary land use permit application that relies on the use and development standards of the applicable Floating Zone. Upon approval of the discretionary permit, the Floating Zone is activated for the site and the prior zoning is permanently extinguished. This process is considered a ministerial text amendment to the Zoning Map of the City.

**TABLE 2**  
**LAND USE DESIGNATIONS AND ZONING**

Residential

Rural	1/du/2,4,8 acres (net)	Rural (R)
Rural Residential	1 1/du/acre	Rural Residential 1 (RR-1)
Rural Residential 2	1-2 du/acre	Rural Residential 2 (RR-2)
Residential 3	1-3 du/acre	Residential 3 (R-3)
Residential 5	1-5 du/acre	Residential 5 (R-5)
Residential 8	1-8 du/acre	Residential 8 (R-8)
Residential 11	1-11 du/acre	Residential 11 (R-11)
	Single Family	Residential 11 (RS-11)
Residential 15	1-15 du/acre	Residential 15 (R-15)
Residential 25	1-25 du/acre	Residential 25 (R-25)
Mobile Home Park	1-11/25 du/acre	Mobile Home Park (MHP)

\*For Residential development, projected density is mid-range for each category.

<del>Floating AHE Zone</del>	20-30 du/acre	Residential 30 (R-30)
		Mixed Use 30 (X-30)
		Shopfront 30 (S-30)

Commercial

Office-Professional	FAR-.75	Office-Professional (OP)
Local Commercial	FAR-.75	Local Commercial (LC)
		Limited Local Commercial(LCC)
General Commercial	FAR-1.0	General Commercial (GC)
Visitor-Serving	FAR-1:0	Visitor-Serving Commercial

Industrial

Light Industrial	FAR-.75	Light Industrial (LI)
		Business Park (BP)

Public

Public/Semi-Public	FAR-.50 (1.0 for medical complexes)	Public/Semi-Public (P/SP)
Transportation		Transportation Corridor (TC)

Open Space

Ecological Resource/ Open Space/Parks	Ecological Resource/ Open Space/Park
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## Overlay Designations

Specific Plan Overlay

Specific Plan (SP)

Special Study Overlay

Coastal Bluff Overlay (CBO)

Hillside/Inland Bluff Overlay (H/IBO)

Floodplain Overlay (FPO)

Cultural/Natural Resources Overlay

(C/NRO)

Agricultural Overlay (AGO)

Public Facilities Overlay

Public Facilities Overlay (PFO)

Scenic/Visual Corridor

Scenic/Visual Corridor Overlay  
(S/VCO)

**Add New Map: Figure 7 as a placeholder. Insert final selection of alternative sites and Council approved Floating Zone Map**

## Chapter 30.00

### Section 5

5.1. No Major Amendment of any of the Planning Policy Documents shall be effective unless and until it is approved by a simple majority vote of the voting electorate of the City of Encinitas voting "YES" on a ballot measure proposing the Major Amendment at a regular or special election.

a. The entire text of a Major Amendment and an easily readable map of the geographic area affected shall be included in the sample ballot material which is mailed to registered voters prior to the election.

b. If amendments to any part of its planning policy documents, including but not limited to the General Plan, specific plans, Encinitas Municipal Code or its Local Coastal Program, are required to secure or maintain Housing Element certification that may otherwise invoke the requirements of Chapter 30.00, the City Council is authorized to make any and all necessary amendments with a four-fifths super majority vote or any other lesser super majority vote should less than five Council members be eligible to vote while maintaining a quorum. Under this exception, the land use change is required to assist the accommodation of future housing needs in the lower income category as defined by State law.

5.2. No Major Amendment and no Regular Amendment of any of the Planning Policy Documents shall be effective unless and until it is approved by an ordinance or resolution adopted by the City Council, but no such amendment shall be considered until a public hearing is conducted on the proposed amendment at both the Planning Commission and at the City Council in the manner provided by state law and advance notice is given as required by section 54.3 below.

### Section 6

6.1. Maximum Height. On and after the date this initiative measure becomes effective no building or structure shall exceed a maximum height of two stories or 30 feet.

6.2. Height shall be measured from the lower of the natural or finished grade adjacent to the structure, to the highest portion of the roof immediately above; except as otherwise provided by Section 30.36.

6.32. Exemptions to Height Limit. The following structures are exempted from this height limit:

- a. Medical Complex development projects as provided in Section 30.28.010(C); and
- b. specified buildings associated with a public high school on a minimum 10 acre site, as currently provided in Section 30.28.010(C) and (D); and of the Encinitas Zoning Code-
- c. land uses subject to Section 30.36.

## Draft Municipal Code and Zoning Code Changes

### 23.08.040, Authority to Grant Permit

- A. The Director has authority to render a final determination on applications for a design review permit for the following categories of projects:
1. Fences, walls and landscaping projects not exempted by this chapter.
  2. Outdoor storage facilities of less than 1,000 square feet in area.
  3. Agricultural buildings which are the primary use of the parcel 2,000 square feet or less.
  4. Exterior additions to existing buildings and structures where the proposed project will involve less than 500 square feet in area and which are otherwise not exempted by this chapter.
  5. Signs and awnings which are placed under the design review jurisdiction of the Director by other provisions of this Code (Chapter 30.60) and not otherwise exempted by this chapter. Said review shall be without notice.
  6. Satellite Antennas. However satellite antennas which are visually screened, per Section 23.08.090, shall be exempt from design review.
  7. Grading unless otherwise exempted by Section 23.08.030B14.
  8. Development as provided by Section 30.36.

### 30.04.010, Definitions

~~FLOATING-AT HOME IN ENCINITAS (AHE) ZONE~~ shall be defined as set forth in Chapter 30.36. AHE is composed of two parts: the current land use under the adopted General Plan (first generation) and the new land use pursuant to the Housing Element Update (second generation). It allows a one-way transition from the presently adopted designation to the AHE designation.~~The Floating Zone is a unique zoning designation that "floats" above the base zone category. The Floating~~ The AHE Zone allows property owners to develop under the existing zone, or should they choose, utilize the AHE Zone to create more housing for the community. However, once an application for development consistent with the second generation AHE land use is approved, the previous (first generation) land use can no longer be implemented.

### 30.34.030

- A. Applicability. The Hillside/Inland Bluff Overlay Zone regulations shall apply to all areas within the Special Study Overlay Zone where site-specific analysis indicates that 10% or more of the area of a parcel of land exceeds 25% slope. The Planning Commission shall be the authorized agency for reviewing and granting discretionary approvals for proposed development within the Hillside/Inland Bluff Overlay Zone, unless as provided by Section 30.36.

### 30.72.020, Initiation/Authority to Grant Amendment



A. A change in the boundaries of any zone or a change of zoning on property from one zone to another may be initiated by the owner(s) or the authorized agent of the owner(s) of the property by filing an application for zoning amendment as described in this chapter. An application accepted by the City shall constitute an application for zoning amendment, and if applying all or in part to property or properties within the Coastal Zone, shall constitute an application for amendment to the implementing regulations of the Encinitas Local Coastal Plan (LCP).

B. A change in boundaries of any zone, a change of zoning on property from one zone to another, or a change in the zoning regulations may be initiated by resolution approved by the majority of the City Council. This resolution shall constitute an application for zoning amendment and an amendment to the implementing regulations of the City's LCP.

C. The City Council is authorized to render a final determination on a zoning amendment application; provided, however, that a change in the regulations of this title, or a change in zoning boundaries or designation of a property or properties all or in part within the Coastal Zone, shall be subject to the provisions of subsection D of this section. The City Council's determination shall be made upon receipt of advisory recommendations from the Planning Commission. The Council's authority to render a determination on a zoning amendment application includes the authority to approve, approve in a modified form, or deny such application.

D. Once approved by the City Council, a zoning amendment for a change in the regulations of this title, or a change in zoning boundaries or designation or property or properties all or in part within the Coastal Zone, constitutes a proposed amendment to the implementing regulations of the City's LCP. A proposed LCP amendment shall comply in form and content with, and shall follow the procedures specified by, Chapter 30.82 of the Municipal Code. Such an amendment shall not become effective until certified by the Coastal Commission pursuant to Public Resources Code Section 30514.

E. There shall be no more than three LCP amendment submittals in any calendar year, subject to exceptions pursuant to paragraph (c) of Section 30514 of the California Public Resources Code. Each submittal may consist of one or more zoning changes. (Ord. 94-06; Ord. 96-07)

F. Notwithstanding the above or as otherwise stated in this Chapter, the Floating AHE Zone shall be initiated and administered as provided by Section 30.36.

## North 101 Corridor Specific Plan

### 3.1 Development Standards

[...]

*(to follow zoning map)*

#### Floating At Home in Encinitas (AHE) Zone

The City adopted an At Home in Encinitas (AHE) ~~Floating~~ Zone to support existing housing policy and updates as needed to meet State mandates and incorporate land use policies that support more complete neighborhoods and ~~that support and enhance~~ community character. The ~~Floating~~ AHE Zone is a unique zoning designation that is composed of two parts: the current land use under the adopted General Plan (first generation) and new land use pursuant to the Housing Element Update (second generation). The new AHE zone allows a one-way transition from existing land uses to the AHE designation. ~~“floats” above the base zone category.~~ The AHE ~~Floating~~ Zone allows property owners to develop under the existing zone (first generation), and maintain all zoning rights privileged thereto; or should they choose, utilize the new land use (second generation) ~~Floating Zone~~ to create more housing for the community. Once an application for development consistent with the second generation AHE Zone is approved, the previous (first generation) land use policies and zoning can no longer be implemented. The first generation land use policies and zoning are no longer available once this one-way transition is initiated unless a legislative action is approved. The land use and zoning maps will be ministerially updated by clipping out the first generation designation to disclose the transition. Chapter 30.36 of the City’s Zone Code establishes the applicability and process for transition.

The ~~Floating~~ AHE Zone is intended to:

1. Implement the At Home in Encinitas General Plan land use designation, which recognizes that relatively few vacant sites suitable for these land uses remain in the City, so the land use designation is purposefully flexible to accommodate a one-way transition from existing first generation uses and development standards to the second generation uses and standards in a manner that allows existing uses and development to thrive until that transition is initiated;
2. Allow for- a moderate increase in residential density and to accommodate a mixture of residential building types and unit sizes;
32. Enable market-based solutions to the provision of attainable housing;
43. Meet the state’s Regional Housing Needs Assessment (RHNA) rezoning requirements;
54. Ensure that the vision set forth in the Housing Plan is implemented;
65. Respond to neighborhood character, be compatible with community specific settings and promote basic best practices in urban design;
76. Promote infill development and revitalization that is compact and supports pedestrian-friendly development patterns with safe, effective and multi-modal transportation options; and
87. Contribute to the economic and fiscal sustainability of the City.

In the Floating AHE Zone, development will provide a density range from a minimum of 20 dwelling units per acre to a maximum of 30 dwelling units per acre as a permitted use. If an area is determined to be purely residential (no commercial or light industrial), then the letter “R” is associated with that site (i.e. R30). If a mixture of residential and non-residential uses are permitted, then the letter “X” is associated with that site (i.e. X30). If a shopfront (e.g., ground story non-residential use) is required, then the letter “S” is associated with that site (i.e. S30). There are also three primary contextual considerations, based on the location and surrounding character, that are implemented through zoning. These include Neighborhood Center (N), Village Center (V), and Main Street (M). These letters correspond to the primary “community character” contexts.

Future development in the Floating Zone is regulated by Chapter 30.36 of the Zoning Code and not by this Specific Plan. In content, a Floating Zone is similar to a conventional zone. It describes the permitted uses, identifies the types of permitted development, setback requirements, and other standards to be applied in the district. Unlike conventional zoning districts in the specific plan, the floating zone is not designated on the zoning map. It “floats” over specific sites until, upon approval of an application, it is “brought down” to a particular parcel through an amendment to the zoning map. Upon approval of the discretionary permit, the Floating Zone is activated for the site and the prior zoning is permanently extinguished. This process is considered a ministerial text amendment to the Zoning Map of the Specific Plan. The text of Chapter 30.36 establishes clear standards for Floating Zone approval.

Developers can use the AHE Flexible-Zone only on those sites labeled with an AHE-Floating Zone Designator on the City’s Land Use Map in the Land Use portion of the General Plan and as listed below.

<u>Site ID</u>	<u>Existing Zoning</u>	<u>Floating AHE Zone</u>
<i>To be determined.</i>		

### **Section 3.1.2.A, NCM-1**

#### **4.B, Mixed Use Site Planning**

2. Within this zone, residential uses may occupy any ground floor area, except in areas where zoning regulations require ground floor commercial uses in key locations. For the NCM-1 Zone, key locations are from Marcheta Street to North Court; and from Daphne Street to Diana Street. In these areas, residential uses shall be located either above or behind the primary commercial use and shall not occupy the ground floor building frontage area along Highway 101.

3. All detached or attached single-family dwelling units in residential-only developments must be constructed on a legally subdivided lot or must be subdivided to permit ownership of airspace in the form of a dwelling unit with an undivided share in common elements. There are no airspace requirements for multi-family housing development.

4. In a mixed use development, ~~r~~Residential uses shall not exceed 50 percent of the gross building floor area for the development site, unless authorized through the approval of a Major Use Permit.

#### **Section 3.1.2.B, NCM-2**

##### **4.B, Mixed Use Site Planning**

2. ~~Residential uses shall be located either above or behind the primary commercial use and shall not occupy the ground floor building frontage area along Highway 101.~~

23. All detached or attached single-family dwelling units in residential-only developments must be constructed on a legally subdivided lot or must be subdivided to permit ownership of airspace in the form of a dwelling unit with an undivided share in common elements. There are no airspace requirements for multi-family housing development.

34. In a mixed use development, ~~r~~Residential uses shall not exceed 50 percent of the gross building floor area for the development site, unless authorized through the approval of a Major Use Permit.

45. Residential densities shall be calculated pursuant to Section 30.16.010.B.1 and 2 of Title 30 of the Encinitas Municipal Code.

#### **Section 3.1.2.C, NCM-3**

##### **4.B, Mixed Use Site Planning**

2. Within this zone, residential uses may occupy any ground floor area, except in areas where zoning regulations require ground floor commercial uses in key locations. For the NCM-3 Zone, key locations are from A Street to B Street on Highway 101. In this area, ~~r~~Residential uses shall be located either above or behind the primary commercial use and shall not occupy the ground floor building frontage area along Highway 101.

3. All detached or attached single-family dwelling units in residential-only developments must be constructed on a legally subdivided lot or must be subdivided to permit ownership of airspace in the form of a dwelling unit with an undivided share in common elements. There are no airspace requirements for multi-family housing development.

4. In a mixed use development, ~~r~~Residential uses shall not exceed 50 percent of the gross building floor area for the development site, unless authorized through the approval of a Major Use Permit.

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## Section 3.1.2.D, NCRM-1

### 4.B, Mixed Use Site Planning

~~2. Residential uses shall be located either above or behind the primary commercial use and shall not occupy the ground floor building frontage area along Highway 101.~~

23. All detached or attached single-family dwelling units in residential-only developments must be constructed on a legally subdivided lot or must be subdivided to permit ownership of airspace in the form of a dwelling unit with an undivided share in common elements. There are no airspace requirements for multi-family housing development.

34. In a mixed use development, rResidential uses shall not exceed 50 percent of the gross building floor area for the development site, unless authorized through the approval of a Major Use Permit.

45. Residential densities shall be calculated pursuant to Section 30.16.010.B.1 and 2 of Title 30 of the Encinitas Municipal Code.

## Encinitas Ranch Specific Plan

### Section 3.2 Land Use Plan

[...]

*(to follow discussion)*

#### Floating At Home in Encinitas (AHE) Zone

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The ~~Floating~~ AHE Zone is intended to:

1. Implement the At Home in Encinitas General Plan land use designation, which recognizes that relatively few vacant sites suitable for these land uses remain in the City, so the land use designation is purposefully flexible to accommodate a one-way transition from existing first generation uses and development standards to the second generation uses and standards in a manner that allows existing uses and development to thrive until that transition is initiated;
2. Allow for- a moderate increase in residential density and to accommodate a mixture of residential building types and unit sizes;
32. Enable market-based solutions to the provision of attainable housing;
43. Meet the state’s Regional Housing Needs Assessment (RHNA) rezoning requirements;
54. Ensure that the vision set forth in the Housing Plan is implemented;
65. Respond to neighborhood character, be compatible with community specific settings and promote basic best practices in urban design;
76. Promote infill development and revitalization that is compact and supports pedestrian-friendly development patterns with safe, effective and multi-modal transportation options; and
87. Contribute to the economic and fiscal sustainability of the City.

In the Floating AHE Zone, development will provide a density range from a minimum of 20 dwelling units per acre to a maximum of 30 dwelling units per acre as a permitted use. If an area is determined to be purely residential (no commercial or light industrial), then the letter "R" is associated with that site (i.e. R30). If a mixture of residential and non-residential uses are permitted, then the letter "X" is associated with that site (i.e. X30). If a shopfront (e.g., ground story non-residential use) is required, then the letter "S" is associated with that site (i.e. S30). There are also three primary contextual considerations, based on the location and surrounding character, that are implemented through zoning. These include Neighborhood Center (N), Village Center (V), and Main Street (M). These letters correspond to the primary "community character" contexts.

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<u>Site ID</u>	<u>Existing Zoning</u>	<u>Floating AHE Zone</u>
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## Downtown Encinitas Specific Plan

### Section 3.2 Development Standards

#### E. Floating-At Home in Encinitas (AHE) Zone

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2. Allow for- a moderate increase in residential density and to accommodate a mixture of residential building types and unit sizes;
32. Enable market-based solutions to the provision of attainable housing;
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In the ~~Floating~~ AHE Zone, development will provide a density range from a minimum of 20 dwelling units per acre to a maximum of 30 dwelling units per acre as a permitted use. If an area is determined to be purely residential (no commercial or light industrial), then the letter “R” is associated with that site (i.e.



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<i>To be determined.</i>		

## Cardiff Specific Plan

### Section 3.2 Use and Development Standards

#### Section 3.2.3 Planning Area and Zones

[...]

*(to follow tables)*

#### Floating-At Home in Encinitas (AHE) Zone

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5. Ensure that the vision set forth in the Housing Plan is implemented;
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<i>To be determined.</i>		

## NOISE ELEMENT

**GOAL 1:** Provide an acceptable noise environment for existing and future residents of the City of Encinitas.

**POLICY 1.1:** Develop and regularly update codes and ordinances as necessary to regulate impacts from continuous and intermittent noise sources.

**POLICY 1.2:** Use Figure 2, the Noise and Land Use Compatibility Guidelines as a guide in determining the acceptability of exterior noise. In most circumstances, sound attenuation needs to be provided, but not necessarily mitigating sound to meet these levels.

- For planning/development review purposes, “exterior noise” for single-family residential land uses is defined as noise measured at an outdoor living area that adjoins and is on the same lot as the dwelling and is provided for private open space purposes, such as improved yard space. For multi-family residential and non-residential land uses, “exterior noise” levels shall be measured from group usable open space areas. Group usable open space areas are intended for common use by occupants of a development, but do not include off-street parking and loading areas.
- For code enforcement and nuisance related impacts, existing land uses, operations, and activities shall be subject to those performance standards and methods identified by the Municipal Code.

**POLICY 1.3:** Figure 2, the Noise and Land Use Compatibility Guidelines indicates a range of land use types - and is intended to be flexible enough to apply to a range of projects and environments. In a mixed-use setting where different land use activities are located on the same parcel and/or residential uses are located above a non-residential use, noise standards for the more intensive land use category shall be used when evaluating appropriate exterior noise levels in a proposed development project. Residential exterior noise standards shall be applied to group or common outdoor use areas and shall not be applied to private spaces.

**POLICY 1.4:** Interior noise levels for all residential units shall be attenuated to 45 Ldn. Interior noise levels for non-residential uses shall be:

- Transient lodging - 45 Ldn
- Private schools, libraries, churches, hospitals, and nursing homes – 45 dBA Leq
- Civic/institutional, office buildings, retail, business, professional, and/or other similar commercial type – 55 dBA Leq
- Auxiliary office supporting industrial, warehouse and manufacturing – 55 dBA Leq
- No interior noise level limit for industrial, warehouse, and manufacturing.

**Policy 1.5:** Review actions or projects that may have noise generation potential to determine what impact they may have on existing land uses. If a project would cause an increase in traffic noise levels, the policy of the City of Encinitas is to accept an increase within the “acceptable” exterior noise exposure range, as shown in Figure 2, the Noise and Land Use Compatibility Guidelines. A land use located in an area with an

“acceptable” exterior noise level indicates that standard construction methods would attenuate exterior noise to an acceptable indoor noise level and that people can carry out outdoor activities with minimal noise interference. For areas where existing or future noise levels exceed “acceptable” levels of noise for the subject land use, and increase of 3 Ldn from new development would be considered an impact. up to an Ldn of 55 dB in outdoor residential use areas without mitigation. If a project would increase the traffic noise level by more than 5 dB and the resulting Ldn would be over 55 dB, then mitigation measures must be evaluated. If the project, or action, would increase traffic noise levels by 3 dB or more and the resulting Ldn would exceed 60 dB in outdoor use areas in residential development, noise mitigation must be similarly evaluated. The impact of non-transportation projects must generally be evaluated on a case-by-case basis. The following guidelines will aid in evaluating the impacts of commercial and industrial projects.

- ~~a) Performance Standards Adjacent to Residential Areas. New commercial construction adjacent to residential areas should not increase noise levels in a residential area by more than 3 dB (Ldn) or create noise impacts which would increase noise levels to more than an Ldn of 60 dB at the boundary of the nearest residential area, whichever is more restrictive.~~
- ~~b) Performance Standards Adjacent to Commercial and Industrial Areas. New commercial projects should not increase noise levels in a commercial area by more than 5 dB (Ldn) or increase noise levels to an Ldn in excess of 70 dB (office buildings, business and professional) or an Ldn of 75 dB (industrial) at the property line of an adjacent commercial/industrial use, whichever is more restrictive.~~

These criteria may be waived if, as determined by a noise analysis, there are mitigating circumstances (such as higher existing noise levels) and/or no uses would be adversely affected. Where conditions are unusual or where backgrounds are unusually low and the characteristics of a new noise source are not adequately described by using the Ldn noise descriptor, additional acoustical analysis is encouraged and the conclusions of such analysis will be considered by the City.

If acoustical study shows that exterior noise levels can't be mitigated to the established standards as noted within this chapter, the development shall not be approved without first making findings necessary to exceed the stated noise standards. Through sound attenuation and project design features, exterior noise exposure in the “normally unacceptable” range should be reduced to “conditionally acceptable,” to the extent feasible. New construction or development should not be undertaken if the noise exposure falls within the “clearly unacceptable” range as provided in Figure 2, the Noise and Land Use Compatibility Guidelines.

**POLICY 1.62:** ~~An Ldn of 60 dB is the maximum acceptable outdoor noise level in residential outdoor use areas.~~ The City recognizes that there are residential areas in which existing noise levels exceed an acceptable level. The City will adopt a Noise Wall/Barrier Installation Policy for determining which areas should receive soundwalls along the major street system and to evaluate possible cost participation programs for constructing these soundwalls.

**POLICY 1.73:** To further improve the noise environment in the City of Encinitas, the law enforcement agency~~police department~~ will enforce the provisions in Sections 27-150 and 27-151 of the California State Motor Vehicle Code. These sections require that all vehicles be equipped with a properly maintained muffler and that exhaust systems not be modified.

**POLICY 1.84:** The City will limit truck traffic in residential and commercial areas to designated truck routes. Limit construction, delivery, and through truck traffic to designated routes. Distribute maps of approved truck routes to City traffic officers.

**POLICY 1.95:** The City will establish and maintain coordination among City, County, and State agencies involved in noise abatement and other agencies to reduce noise generated from sources outside the City's jurisdiction.

**POLICY 1.106:** Include noise mitigation measures in the design of new roadway projects recognizing that driveways, street openings, and other existing site conditions make noise mitigation impossible.

**POLICY 1.117:** Apply Title 24 of the California Administrative Code, associated with noise insulation standards, to single-family dwellings.

**POLICY 1.128:** Establish noise standards for all types of noise not already identified in the General Plan or governed by existing ordinances.

**GOAL 2: Require that new development be designed to provide acceptable indoor and outdoor noise environments.**

**POLICY 2.1:** Figure 2, the Noise and Land Use Compatibility Guidelines, and the accompanying discussion set forth the criteria for siting new development in the City of Encinitas. Any project which would be located in a normally unacceptable noise exposure area, based on the Land Use Compatibility Guidelines, shall require an acoustical analysis. Noise attenuation~~mitigation~~ in the future shall be incorporated in the project as needed. As a condition of approval of a project, the City may require post-construction noise monitoring and sign off by an acoustician to ensure that City requirements have been met.

**GOAL 4: Provide for measures to reduce noise impacts from stationary noise sources.**

**POLICY 4.1:** Ensure inclusion of noise attenuation~~mitigation~~ measures in the design and operation of new and existing development

## Noise Mitigation Plan, Noise and Land Use Compatibility Guidelines

### Page N-14 and 15

The objective of Figure 2 is to provide an acceptable community noise environment and to minimize noise-related complaints from residents. The compatibility guidelines should be used in conjunction with the future noise exposure levels in Figure 1 to identify projects or activities which may require special treatment to minimize noise exposure. Homes should not be allowed near a freeway, for example, unless mitigation measures can effectively reduce noise exposure to “conditionally acceptable” levels.

A land use or project in the "normally acceptable" category will be acceptable within the noise levels indicated, in most cases, without special noise abatement measures. For example, a home of standard construction would be an acceptable use in any area of 60 Ldn or less without special insulation, setback, or building design. The same home in an area projected for noise levels of 60 to 70 Ldn should be allowed only following an acoustical study which recommends site-specific noise attenuation measures such as double pane windows, setbacks, and/or construction of soundwalls.

The following considerations should be taken into account when using the Noise and Land Use Compatibility Guidelines:

The goal for maximum outdoor noise levels in residential areas is a Ldn of 60 dB. This level is a requirement to guide the design and location of future development and a goal for the reduction of noise in existing development. However, 60 Ldn is a goal which cannot necessarily be reached in all residential areas within the realm of economic or aesthetic feasibility. Figure 2, the Noise and Land Use Compatibility Guidelines, provides “conditionally acceptable” and “normally unacceptable” noise exposure ranges. A land use project in these categories must provide a detailed analysis of the noise reduction requirements and needed noise insulation features included in the design. This goal should be applied where outdoor use is a major consideration (eg., backyards in single-family housing projects). The outdoor standards should not normally be applied to the small decks associated with apartments and condominiums because of the lack of use of these decks even in quiet areas. A multi-family development can often be designed in such a way that the buildings shield common outdoor areas and achieve an acceptable outdoor noise level without the use of soundwalls. For this reason, multi-family housing can often be developed more successfully in noise environments in which the Ldn exceeds 60 dB.