

## Draft Native Plant Ordinance

### CHAPTER 23.27 PLANT AND TREE REGULATIONS

#### 23.27.030 Native Plant

##### A. Intent and Purpose.

It is the intent of this article that these minimum landscape requirements be incorporated in order to promote environmental sustainability and resilience, improve habitat and local native biodiversity, increase local pollinators, improve natural spaces including habitat linkages, promote community aesthetics and function, foster long-term successful native landscapes, and promote reduced water use.

##### B. Conflicting Provisions.

In the case of conflict between the planting provisions of this Section and other provisions of the Municipal Code, resolution, or ordinance of the City, the regulations of this Section shall supersede, unless stated otherwise below:

1. For existing and proposed trees located in the public right-of-way the standards set forth in this Section shall supersede those standards found in Encinitas Municipal Code (EMC) Chapter 15.02 or the Urban Forest Management Program Administrative Manual of Procedures, unless otherwise determined by the City Arborist.
2. Properties in the Coastal Bluff Overlay Zone shall first comply with EMC Section 30.34.020 of the Municipal Code.

##### C. Definitions.

For the purpose of this Section the following definitions shall apply:

“Adjacent” shall mean immediately next to, sharing a common property line, or adjoining together.

“City owned property” shall mean any property owned, occupied, or controlled by the City of Encinitas, including but not limited to, school grounds, parks, playgrounds, lawns, streets, sidewalks, rights-of-way, waters, waterways, trails, beaches, habitat restoration areas and open spaces.

“Cultivar” shall mean a selection from the wild of a native plant for its unique attributes and traits such as taste, smell, size, or color.

“Environmentally sensitive areas” shall mean any land or waters in which plants, animal life, or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development as defined per Public Resource Code 30107.5 and as amended.

“Hybrid plant” shall mean a naturally occurring cross between two different native plant species or varieties.

“Invasive plant species” shall mean any plant listed on either of the following lists: San Diego County Weed Management Area Watchlist and California Invasive Plant Council (Cal-IPC) list containing one of the following ratings: high, moderate, alert, and watch.

“Landscape area” shall mean all existing or proposed planting areas located in the project boundaries including, but not limited to, at grade planter beds, raised planter boxes or beds, green roofs, and stormwater treatment areas. Landscape areas shall not include structures, landscaped walls, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other similar pervious or non-pervious hardscapes.

“Multi-family development” shall mean two or more primary units onsite.

“Native plant” shall mean any plant known to occur in California prior to European contact. These plants evolved in California over a very long period, and are the plants that have co-evolved with animals, fungi and microbes, to form a complex network of relationships. Native cultivars (i.e. select native plant specimens propagated for landscaping purposes) and naturally occurring hybrids of native plants will also be considered native for the purpose of the Section.

“Open space” shall mean publicly or privately owned areas that are deemed to be of significant community importance due to their ecological value and are protected from development.

“Southern California native plant” shall mean a native plant that is known or has been known in the following Jepson bioregions (i.e. EcoRegions per Calscape). The following EcoRegions shall qualify under this definition: Desert Mountains, Mojave Desert, North Channel Islands, Peninsular Ranges, San Bernadino Mountains, San Gabriel Mountains, San Jacinto Mountains, Sonoran Desert, South Channel Islands, South Coast, Tehachapi Mountain Area, and Western Traverse Ranges.

“Special purpose overlay” shall mean properties that qualify pursuant to EMC Section 30.34.

#### **D. Applicability.**

This Section shall apply to the following projects that require a discretionary permit:

1. Any project that requires a Design Review permit, pursuant to EMC Section 23.08.030.A, and proposes a landscape plan.
2. All City owned properties.

#### **E. Exemptions.**

The following shall be exempt from the provisions of this Section:

1. Construction or reconstruction of a single-family residence including additions or conversions of accessory dwelling units and/or junior accessory dwelling units.
2. Athletic fields, athletic courts, turf, picnic areas, and informal gathering spaces that are located in a City owned park, community space, and/or recreational area.
3. California State owned land and beaches.
4. An area that is designated as a recreational amenity or facility to satisfy multifamily or mixed-use development requirements.
5. Community gardens.

6. Extensive green roofs, provided that native plants shall be incorporated to the extent that doing so is feasible based on the survivability of native plants in such conditions.
7. All orchards, botanical gardens, nurseries, and other professional growing operations.

**F. General Requirements.**

The following provisions shall apply:

1. Southern California native plants shall be chosen to satisfy the requirements of this Section from the following native plant data resource:
  - a. Calscape by the California Native Plant Society.
2. The total of all landscaped areas on the project site shall consist of a minimum fifty (50) percent southern California native plants, and shall be calculated as follows:
  - a. Ground plane (excluding trees) shall cover a minimum of fifty (50) percent of the total landscaped area as measured by the species size at maturity, and
  - b. Trees shall be a minimum of fifty (50) percent of the total tree quantity on the project site.
3. Any landscaped area within fifty (50) feet of any environmentally sensitive area, open space, and/or required setback, shall be one hundred (100) percent southern California native plants.
4. Landscape areas shall comply with any additional setbacks or regulations that are required by the City (i.e. special purpose overlays, designated evacuation routes or hazardous fire area requirements per the Encinitas Municipal Code), State (i.e. California State Fire Marshal & Board of Forestry, California Coastal Commission, California Department of Fish and Wildlife) or Federal agencies (i.e. U.S. Fish and Wildlife).
5. A project site that is located in a fire hazard severity zone (FHSZ) as determined by Cal Fire shall first comply with all fire safety requirements and supersede this Section. A project's approved landscape plan and fire protection plan shall be consistent and comply with all California state and Encinitas Fire Department requirements, to prioritize public health and safety as determined by the Fire Department.
6. California State lands and beaches are highly encouraged to comply with the provisions of this Section.
7. Seed mixes are not allowed to satisfy the requirements of this Section.
8. Plants that are identified as invasive plant species shall not be allowed in any proposed landscape area except for turf grass which can be considered for use outside of areas that are within close proximity to sensitive open space.
9. Proposed plant palettes should include a diversity and mix of species, form, blooming period, and life cycle.

**G. Development Applications for Private and Public Projects.**

1. The landscape plan submitted as part of the discretionary application shall be prepared and stamped by a licensed landscape architect, certifying that at the time

of stamping, the plans and selected plant comply with all the requirements of this Section.

2. Prior to the issuance of certificate of occupancy of the building permit, a licensed landscape architect shall submit to the City, a date stamped landscape verification letter within one week from the date of the verification letter, certifying the landscape has been installed pursuant to the stamped approved landscape plans.

#### **H. Installation and Recommendations**

Native landscaping shall be installed in accordance with industry standards, best practices, and the most current technical guidance available. The approach should be tailored to the specific native plant species and broader vegetation communities included in the design to ensure long-term health and ecological sustainability. Key factors such as soil condition, irrigation method and frequency, proper planting techniques and other appropriate factors must be carefully considered and appropriately implemented.

#### **I. Maintenance, Replacement and Removal Requirements**

##### **1. Maintenance**

- a. Approved native landscape areas shall be perpetually maintained to be in compliance with this Section by the property owner, assigns, or any successors in interest in the property/homeowners' association.
- b. Pruning in native landscape areas should be limited to what is needed for appropriate native plant health and to maximize habitat value and pollinator use. Trimming is permitted when necessary to prevent obstruction of pedestrian walkways, access passageways, vehicular sight-distance visibility, or to ensure adequate clearance for fire safety and maintenance operations.
- c. Native landscaped areas shall be managed to minimize weeds. Weeding methods shall prioritize non-chemical treatments including hand-pulling in smaller areas and mulching or solarizing in larger areas.
- d. The City shall comply with the City's Integrated Pest Management (IPM) Policy.

##### **2. Removal and Replacement**

- a. In areas of necessary disturbance, existing established native vegetation may be relocated for use in other areas.
- b. In areas containing invasive plants, applicants shall remove and destroy such plants to maintain the health of existing vegetated areas.
- c. Dead and missing native plants shall be removed and replaced to be in compliance with the approved landscape plan and in compliance with this Section.

#### **J. Enforcement.**

Projects that do not implement and maintain the project site's landscaping pursuant to the approved landscape plan shall be in violation of the permit(s) and the City may issue a notice of violation, weed abatement, or stop work order suspending and/or prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection, and issuance of certificates of occupancy) until the licensed landscape architect submits a signed and stamped landscape verification letter

indicating that the landscape has been installed pursuant to the stamped approved landscape plans.