

ATTACHMENT 1

CHAPTER 23.27 PLANT AND TREE REGULATIONS

23.27.030 Native Plants.

A. This Section shall be known as the “City of Encinitas Native Plant Ordinance” and may be so cited.

B. 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.

C. 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 located in a fire hazard severity zone (FHSZ) as determined by Cal Fire, shall comply with all fire safety requirements as determined by the Encinitas Fire Department.
3. Properties in the Coastal Bluff Overlay Zone shall first comply with EMC Section 30.34.020.
4. The provisions of this Chapter shall prevail over the provisions of EMC Chapter 23.26, Water Efficient Landscape Regulations when in conflict.

D. Definitions.

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

“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 infiltration or 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 (including trees) 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 or managed 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 Bernardino Mountains, San Gabriel Mountains, San Jacinto Mountains, Sonoran Desert, South Channel Islands, South Coast, Tehachapi Mountain Area, and Western Transverse Ranges.

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

E. Applicability.

This Section shall apply to the following projects that require a discretionary permit and include a landscape plan:

1. Design Review permit pursuant to EMC Section 23.08.030.A.
2. Major Use Permit pursuant to EMC Section 30.74.040.A, regulating the Ecological Resource/Open Space/Parks (ER/OS/PK) zone.
3. All City owned properties.

F. Exemptions.

The following shall be exempt from the provisions of this Section, although the use of native plants in these settings is encouraged:

1. Construction or reconstruction of a single-family residence including additions or conversions of accessory dwelling units and/or junior accessory dwelling units.
2. City owned and maintained athletic fields, athletic courts, turf, picnic areas, and informal gathering spaces that are located in a City owned park, community space, and/or recreational facilities.
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.
8. Golf courses.
9. Cemeteries.

G. 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; no other lists or data resources are permitted:
 - 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. The fifty (50) percent requirement shall be measured by the plant species size at maturity, excluding trees and tree canopies, and
 - b. Native trees shall be a minimum of fifty (50) percent of the total proposed tree quantity. Any fraction shall be native rounded up to the highest whole number.
3. Any proposed landscaped area within fifty (50) feet of any environmentally sensitive area, open space, and/or in a required setback established from an environmentally sensitive area, shall be planted with one hundred (100) percent southern California native plants.
4. Landscape areas shall comply with any additional setbacks or regulations that are required by, including but not limited to, the City (i.e. EMC Section 30.34 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 have a landscape plan and fire protection plan, if required, that is consistent and compliant 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, unless the landscaping area is located on a manufactured slope and the City requires the slope to be hydroseeded for stabilization purposes. A southern California native seed mix shall be acceptable to comply with the requirements of 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 shall include a diversity and mix of species, form, blooming period, and life cycle to support wildlife/pollinator biodiversity.
10. Monocultures (i.e. single or minimal species concentrations) shall be avoided.

H. Development Application Requirements.

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 plants comply with all the requirements of this Section.
2. Prior to the issuance of certificate of occupancy of the building permit or grading permit if a building permit is not required, a licensed landscape architect shall

submit to the City, a date stamped landscape certificate of completion form, within 10 days from the signature date of the certification form, certifying that the landscape has been installed pursuant to the stamped approved landscape plans.

I. Installation Requirements and Recommendations.

Native landscaping shall be installed in accordance with industry standards, best practices, and the most current technical guidance available. The approach shall be tailored to the specific native plant species, the location and/or gradient of the area of placement, 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.

J. Maintenance, Removal and Replacement Requirements.

1. Maintenance.

- a. Comply with EMC Section 23.26.090.A.3, Soil Preparation, Mulch and Amendments.
- b. Approved native landscape areas shall be perpetually maintained to be in compliance with this Section by the property owner, assignee or any successors in interest in the property/homeowners' association.
- c. Pruning in native landscape areas shall be limited to what is needed for appropriate native plant health and to maximize habitat value and pollinator use. Trimming is permitted when necessary for public safety and fire management requirements as well as to prevent obstruction of pedestrian walkways, access passageways, vehicular sight-distance visibility, or to ensure adequate clearance for fire safety and maintenance operations.
- d. 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.
- e. The City shall comply with the City's Integrated Pest Management (IPM) Policy.
- f. Coastal Bluff areas shall be maintained in accordance with EMC Section 30.34.010.
- g. Native landscaped areas in stormwater infiltration or treatment areas shall be maintained in accordance with EMC Chapter 20.08.140. Maintenance of BMPs.

2. Removal and Replacement.

- a. To the extent feasible, development projects shall preserve existing onsite native vegetation. In areas of necessary disturbance, existing native vegetation may be relocated for use in other areas onsite.
- 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.
- d. Future modifications to native landscaping may require additional discretionary permits from the City and/or natural resource regulatory agencies based on the proposed redevelopment project and baseline conditions at that time.

K. Enforcement.

Projects that do not implement and maintain the project site's landscaping pursuant to the approved landscape plan on file with the City 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 certificate of completion form indicating that the landscape has been installed pursuant to the stamped approved landscape plans. If plants on the original approved plant palette are no longer available, the licensed landscape architect shall select a similar southern California native plant to meet the requirements of the approved landscape plan and this Section.