

CHAPTER DEFINITIONS 30.04

ABUT shall mean two adjoining parcels of property with a common property line, including two or more lots adjoining only at a corner, except where such common property line is located in a public street right-of-way.

ACCESS OR ACCESS WAY shall mean the place, mean, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Ordinance.

ACCESS, LATERAL an area of land providing public access along the shoreline. Lateral accessways are to be used for public pass and repass, passive recreational use or as otherwise designated in the Encinitas Land Use Plan.

ACCESS, VERTICAL an area of land providing a connection between the first public road or use area nearest the sea and the publicly owned tidelands or established lateral accessway. A vertical accessway may be used for public pass and repass, passive recreation use or as otherwise designated in the Encinitas Coastal Land Use Plan.

ACCESSORY BUILDING shall mean a building, part of a building, or structure, which is incidental or subordinate to the main building or use on the same building site, i.e., garage, barn, storage buildings, gazebo and the like. (Ord 89-41)

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of such lot or building.

ACCESSORY UNIT on property zoned for residential single family dwellings, one attached or detached accessory unit may be constructed having a floor area no greater than 750 square feet or 30% of the area of the principal residence, whichever is less. An accessory unit of 400 square feet is permitted regardless of the living area of the principal residence. (Ord. 93-07)

ADULT ARCADE: Shall mean a business establishment as defined in Chapter 6.10. (Ord. 2002-02).

ADULT BOOTH/INDIVIDUAL VIEWING AREA shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT BUSINESS shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT CABARET shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT HOTEL OR MOTEL shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT LIVE ENTERTAINMENT shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT MODELING STUDIO shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT MOTION PICTURE THEATER shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT ORIENTED MATERIAL shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

ADULT RETAIL STORE shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

AGGRIEVED PERSON: In accordance with Sections 30625 and 30801 of the Public Resources Code as amended, an "aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the Coastal Commission or the City of Encinitas in connection with the decision or action *appealed, or who, by other appropriate means prior to a hearing informed the Coastal Commission or City of the nature of his/her concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a Local Coastal Program for the City of Encinitas, the City of Encinitas. (Ord. 95-04). (*See Chapter 1.12.010 through 1.12.060).

ALCOHOL AND DRUG TREATMENT CENTER: shall mean a dwelling unit that provides an in-house treatment or rehabilitation program for its residents and is operated on a 24-hour basis to provide necessary treatment in a residential setting. Alcohol Drug and Treatment Centers are licensed and defined by the State of California under the Uniform Controlled Substances Act (California Health & Safety Code Section 11000 et. seq.) (Ord. 2005-03)

ALLEY shall mean a public or private way permanently reserved as a secondary means of access to abutting property.

AMBIENT LEVEL shall mean that general noise level in the area at a given time.

ANATOMICAL AREAS: See Specified Anatomical Areas.

ANCILLARY USE shall mean a permitted land use which is secondary in importance and character to a primary principal land use on a given development site. An ancillary use is differentiated from an accessory use in that it is more than incidental to the primary use. An ancillary use shall be limited in size or scope of operation to be not more than 15% of the total gross floor area of the development located on a given development site. Additional square footage up to, but not to exceed 30% of total gross floor area of the development may be permitted upon application and approval of minor use permit. An ancillary use must be listed as such as a permitted use under zoning for its given site. (Ord. 92-19)

ANIMAL HOSPITAL shall mean a place where animals are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

ANIMAL, LARGE shall be bovine animals, sheep, goats, and swine.

ANIMAL, SMALL shall mean poultry, rabbits, chinchillas, hamsters, and other small domesticated animals other than a large animal or specialty animal.

ANIMAL, SPECIALTY shall include, but not limited to, fish, fur bearing animals, wild or undomesticated animals, amphibians, insects and birds, other than large or small animals.

ANIMAL WASTE PROCESSING shall mean the processing of animal waste and byproducts including but not limited to animal manure, animal bedding waste, a similar byproduct of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment and includes composting operations.

APARTMENT shall mean a building or portion thereof designed and used for occupancy by two (2) or more individual persons or families living independently of each other.

APPEALABLE DEVELOPMENT WITHIN THE COASTAL ZONE: In accordance with Public Resources Code Sec. 30603(a) as amended, any of the following shall constitute an appealable development: (Ord. 95-04)

A. Coastal Zone developments approved by the City which are located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

B. Coastal Zone developments approved by the City not included within paragraph (A) of this Section that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

C. Any Coastal Zone development which constitutes a major public works project or a major energy facility. The phrase "major public works project or a major energy facility" as used in Public Resources Code Sec. 30603(a)(5) in these regulations shall mean any proposed public works project, as defined by Sec. 13012 of the Coastal Commission Regulations (Title 14, California Administrative Code, Division 5.5) and Public Resources Code Section 30114, or energy facility, as defined by Section 13012 of the Coastal Commission Regulations and Public Resources Code Sec. 30107.

AQUACULTURE: Pursuant to Public Resources Code Section 30100.2 as amended, "aquaculture" shall mean a form of agriculture that is devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses in all planning and permit issuing decisions governed by this title. (Ord. 95-04)

ARCADES shall mean a place of business where five (5) or more electronic or electrical coin operated games are operated for compensation.

AUTOMOBILE SERVICE STATION shall mean a lot or portion of a lot used for the servicing of motor vehicles. Such servicing may include sale of motor fuel and oils, lubrication, incidental car washing, waxing and polishing, sales and service of tires, tubes, batteries, and service of auto accessories. Such servicing shall not include tire recapping, sale or rebuilding of engines, battery manufacturing or rebuilding, radiator repair or steam cleaning, body repair, painting or upholstery, or installation of auto glass.

AUTOMOBILE WRECKING: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of 5 or more motor vehicles which for a period exceeding 30 days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

BARN shall mean a building used for the shelter of livestock raised on the premises, the storage of agricultural products produced or consumed on the premises, or the storage and maintenance of farm equipment and agricultural supplies used for the agricultural operations on the premises.

BASEMENT shall mean a level of a building partly or wholly underground where more than one-half (1/2) of its perimeter is less than or equal to 4' above the lower of natural or finished grade as defined in Section 30.16.010 B7 of the Municipal Code. (Ord. 2003-10).

BEACH shall mean the area lying seaward of the first contour line defining an elevation; 10 feet above mean sea level (North American Datum, 1929).

BED AND BREAKFAST HOME shall mean a single family dwelling which is operated to provide lodging for pay, including overnight sleeping accommodations and breakfast, for one (1) or more guests on a less than weekly basis.

BEDROOM shall mean a room that could be used for sleeping purposes having minimum widths of 7 feet and having a closet, excluding bathrooms, kitchen, living room, and laundry.

BICYCLE SPACE shall mean an area that is permanently reserved and maintained for parking one bicycle either in an open rack or an enclosed structure or locker.

BLOCK shall mean all property fronting upon one side of a street between intersecting and intercepting streets, or between a street and a right-of-way, waterway, terminus of dead end street, or City boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts.

BLUFF, COASTAL: Pursuant to Section 13577(h) of Title 14 of the California Code of Regulations as amended, a coastal bluff shall mean: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code 30603(a)(1) or (a)(2). (Ord. 95-04)

BLUFF shall mean a scarp, or steep face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, filling, or excavation of the land mass. The bluff may be simple planar or curved surface or it may be steplike in section.

BLUFF EDGE shall mean the upper termination of a bluff. When the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the presence of the steep bluff face, the edge shall be defined as that point nearest the bluff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a step-like feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. In those cases where irregularities, erosion intrusions, structures or bluff stabilizing devices exist on a subject property so that a reliable determination of the bluff edge cannot be made by visual or topographic evidence, the Director shall determine the location of the bluff edge after evaluation of a geologic and soil report.

BUILDING shall mean any structure having a roof supported by columns or walls.

BUILDING HEIGHT shall mean the vertical distance from the lower of the natural or finished exterior grade adjacent to the structure, to the highest portion of the structure immediately above. When a basement element or underground structures exist or are proposed, height is measured from the finished grade (above the underground parking or basement element) provided the finished grade is at or below the previous natural grade, to the highest portion of the structure immediately above. (See Section 30.16.010B6). (Ord. 2003-10).

BUILDING REMODEL shall mean a building that is being remodeled is capable of supporting or sheltering the use or occupancy permitted by the zoning designation assigned to the property. Once the structure or portion thereof is removed that prevents occupancy of the entire dwelling unit pursuant to the definition in Section 405 of the Uniform Building Code, the structure shall be considered new and subject to the applicable standards, i.e., traffic impact fees, and other regulations. This policy would consider reroofing, second story addition over existing first floor, or exterior residing as a structural remodel provided the exterior support walls remain. (Ord. 89-41)

BUILDING SITE shall mean a legally created parcel or contiguous parcels of land in single or joint ownership, which provides the area and the open spaces required by this code, exclusive of all vehicular and pedestrian rights-of-way and all other easements that prohibit the surface use of the property by the owner thereof.

BUSINESS CENTER shall mean a development in which businesses and structures are designed as an architecturally integrated and interrelated development. Such design is independent of the number of structures, lots, or parcels making up the center.

CALIFORNIA COASTAL ACT OR COASTAL ACT shall mean the California Coastal Act of 1976, Division 20 of the Public Resource Code, as amended. (Ord. 95-04)

CANOPY shall mean a permanent roof-like structure extending from part or all of a building face and constructed of durable material which may not project over a public right-of-way.

CARPORT shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for vehicle storage for the occupants of the premises.

CATEGORICALLY EXCLUDED DEVELOPMENT: A development by which the Coastal Commission has determined pursuant to Section 30610(e) of the Public Resources Code to have no potential for significant adverse environmental affects.

CELLULAR FACILITY: An installation containing transmitters, receivers and control equipment necessary for interface between the mobile telephone and landbase telephone network. (Ord. 91-03)

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CHAPTER THREE POLICIES shall mean those policies of the Coastal Act contained in Chapter Three as amended, commencing with Section 30200, which constitute the standards by which the adequacy of local coastal programs and permissibility of proposed development subject to the provisions of the Coastal Act is determined. (Ord. 95-04)

CHIMNEY shall mean a hollow shaft containing one or more passages vertical or nearly so, for conveying products of combustion.

CHILD for the purpose of family day care home regulations a "Child" shall mean a person who is under 18 years of age who is being provided care and supervision in a child day care facility. (Ord. 92-28)

CHILD DAY CARE FACILITY shall mean any child day care facility as defined in Section 1596.750 of the California Health and Safety Code other than family day care homes. (Ord. 2002-02).

CHURCH shall mean an institution which people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation, and shall include buildings in which the religious services of any denomination are held.

CLINIC shall mean a place for medical services to patients human or animal not involving the overnight housing of patients.

CLUB shall mean an association of persons (whether or not incorporated) for a common purpose, but not including groups organized solely or primarily to render a service as a business for profit.

COASTAL COMMISSION: The California Coastal Commission.

COASTAL-DEPENDENT DEVELOPMENT OR USE: Pursuant to Public Resources Code Section 30101 as amended, "coastal-dependent development or use" shall mean any development or use which requires a site on, or adjacent to, the sea to be able to function at all. (Ord. 95-04)

COASTAL DEVELOPMENT PERMIT: Pursuant to Section 30110 of the Public Resources Code as amended, a "coastal development permit" shall mean any license, certificate, approval or other entitlement for use granted or denied by any public agency which is subject to the provisions of Division 20 of the Public Resources Code as amended. (Ord. 95-04)

COASTAL LAND USE PLAN: Maps and text which indicate the kinds, location and intensity of land uses in the Coastal Zone and including resource protection and development policies.

COASTAL-RELATED DEVELOPMENT: Pursuant to Public Resources Code Section 30101.3 as amended, "coastal-related development" shall mean any use that is dependent on a coastal-dependent development or use. (Ord. 95-04)

COASTAL RESOURCES include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archeological or paleontological resources. (Ord. 94-06)

COASTAL ZONE: Pursuant to Section 30103(a) of the Coastal Act as amended, "coastal zone" shall mean that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that Chapter of the Statutes of the 1975-76 Regular Session enacting Division 20 of the Public Resources Code as amended, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas, it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas, the zone generally extends inland less than 1,000 yards. (Ord. 95-04)

COASTAL ZONE DEVELOPMENT: Pursuant to Section 30106 of the Public Resources Code as amended, "coastal zone development shall mean on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agriculture purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Ord. 95-04)

COASTLINE shall mean the area along the ocean margin, including the beaches, bluffs, and land area immediately landward thereof.

COMMUNITY APARTMENT shall mean a development in which an undivided interest in the land is coupled with the right of exclusive occupancy of an apartment located thereon.

COMMUNITY DEVELOPMENT DIRECTOR shall mean the Planning and Building Director of the City of Encinitas. (Ord. 2003-08).

CONDOMINIUM shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store.

CONDOMINIUM CONVERSION shall mean the conversion of rental units, residential or commercial, into a condominium project.

CONGREGATE CARE FACILITY / ASSISTED LIVING / BOARD AND CARE shall mean a residential facility which provides limited care and assistance for elderly and/or handicapped persons. Congregate care facilities shall include common dining room, recreation and other common facilities. Congregate care facilities shall provide housing, food service, and assistance with personal care. Personal care means assistance with activities of daily living which maintain physical and psychosocial comfort (i.e. dressing, bathing, feeding, medication management, ambulating, etc.). Congregate care facilities shall be licensed by the State of California, Health and Welfare Agency, Department of Social Services, Community Care Licensing (California Code of Regulations Title 22, Division 6, Chapter 8). (Ord. 97-17)

CONGREGATE HOUSING / INDEPENDENT LIVING / RETIREMENT HOMES shall mean a multi-unit residential facility for residents in which no skilled nursing or direct personal care is given (except home health care and other supportive services provided by community agencies). Congregate housing facilities shall have separate private dwelling units but may include common dining, recreation and living areas. Congregate housing facilities need not be licensed by the State of California, Health and Welfare Agency. (Ord. 97-17)

CONVALESCENT HOME / SKILLED NURSING FACILITY - shall mean a facility which provides 24 hour skilled nursing care (bed and ambulatory) for patients who need post-operative convalescence, short term rehabilitation, are chronically ill and persons who are unable to care for themselves because of age or infirmity; but not including facilities whose major or primary function is for substance abuse rehabilitation or for the care and/or treatment of persons with mental or contagious diseases, disorders or afflictions. Convalescent Homes shall mean a facility licensed by the State of California, Health and Welfare Agency, Department of Health Services, Licensing and Certification Division (California Code of Regulations, Title 22, Division 5, Chapter 3). (Ord. 97-17).

COSMETIC DESIGN STUDIO is an establishment utilizing cosmetic preparations to enhance the natural features of a person or persons. The establishment and all technicians working in the establishment must possess all licenses and permits required by County and State codes. Cosmetic design studios may also include application of permanent make-up such as eye and lip liner, eye brow enhancement, beauty marks, scar cover up and cheek coloring which is consistent with normal pigmentation of the client. The product of cosmetic design studios does not include graphical or color enhancement which is not generally recognized as make-up. (Ord. 97-17)

COUNTY RECORDER shall mean the County Recorder of the County of San Diego.

CUSTOM MANUFACTURING Refers to establishments primarily engaged in the on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment not exceeding two horsepower each or a single kiln not exceeding 8 cubic feet in volume, and the incidental direct sale to consumers of only those produced on site. (Ord 91-03)

DAY CARE CENTER shall mean any child day care facility other than a family day care home, and includes infant centers, preschool and extended day care facilities. (Ord. 92-28)

DENSITY shall mean the total number of dwelling units permitted on a net acre of land.

DEVELOPMENT shall mean the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance, and any use or extension of the use of land.

DORMITORY shall mean a building intended or used principally for sleeping accommodations.

DRIVE-IN OR DRIVE-THROUGH RESTAURANT shall mean a place of business which sells food products and/or beverages and which:

A. Delivers such food products and/or beverages to customers immediately outside of the building from which they are sold by means of service, a window, counter, or similar method or device, or

B. Delivers such food products and/or beverages to customers within a building which is designed in such a manner that a majority of the customers will remove such food products and/or beverages from the building for consumption either on the premises or in the immediate vicinity.

DWELLING shall mean a building or portion thereof designed exclusively for residential occupancy.

DWELLING, ATTACHED shall mean any dwelling structurally connected or within 5' of another dwelling located on the same parcel. (Ord. 89-41)

DWELLING, CARETAKER UNIT shall mean any dwelling unit which serves as the residence of a caretaker or superintendent (and family), for the establishment(s) on the property. A caretaker unit may only be allowed as accessory to the principal use(s) on the site and is subject to the area limitations set forth in Municipal Code Section 30.48.050 Subsection C. (Section 30.48.060) (Ord. 97-17).

DWELLING, DETACHED shall mean any dwelling not structurally connected to another dwelling and maintains a minimum of 5' setback between structures. Detached accessory structures shall be defined as not being structurally connected and maintains a minimum of a 6' setback from the dwelling with eaves having a minimum of 4 feet.

DWELLING, MULTIPLE shall mean a building containing more than two dwelling units, each of which is for occupancy by one family. (Ord. 2005-03).

DWELLING, SINGLE FAMILY shall mean a one-family dwelling, attached or detached, located on separate lots or parcels exclusively for residential occupancy. (Ord. 2005-03).

DWELLING, TWO FAMILY shall mean a building or buildings on a single lot containing not more than two dwelling units. An accessory unit constructed in accordance with Encinitas Municipal Code Chapter 30.48 shall not be counted as a dwelling unit for purposes of this definition. (Ord. 2005-03).

DWELLING UNIT shall mean one or more rooms and a single kitchen in a building or portion thereof designed as a unit for occupancy by one family for living and sleeping purposes, in which all habitable rooms have interior access to the rest of the dwelling unless otherwise approved by the Planning and Building Director. (Ord. 2005-03).

EASEMENT shall mean a grant of one or more of the property rights by a property owner to and/or for use by the public, a corporation or another person or entity.

EDUCATIONAL INSTITUTION shall mean an institution conducting regular academic instruction at kindergarten, elementary, secondary, collegiate levels and including graduate schools, universities, non-profit research institutions, and religious institutions.

EMERGENCY: Pursuant to Section 13009 of Title 14 of the California Code of Regulations as amended and for the purposes of Section 30.80.180 (Emergency Permits) of this Municipal Code, "emergency" shall mean a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. (Ord. 95-04)

EMERGENCY RESIDENTIAL SHELTER - To provide for immediate, basic shelter needs of the homeless and victims of sudden disaster. Length of continuous stay is not to exceed 30 days for any household or individual. Parking standards would be established by preparing a parking study through the use permit process. (Ord. 92-17)

ENERGY FACILITY: Pursuant to Public Resources Code Section 30107 of the Public Resources Code as amended, "energy facility" shall mean any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy. (Ord. 95-04)

ENVIRONMENTALLY SENSITIVE AREA: Pursuant to Section 30107.5 of the Public Resources Code as amended, "environmentally sensitive area" means any area in which plant or 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. (Ord. 95-04)

FAMILY shall mean one or more persons, an individual or two (2) or more persons related by blood, marriage or adoption, or a group including unrelated individuals bearing the generic character of and living together as a relatively permanent unit sharing such needs as cooking facilities. Family shall also mean the persons living together including the licensee, the members of the licensee's family, and persons employed as facility staff in the following facilities licensed to serve six (6) or fewer persons **A**) a licensed "residential facility", as that term is defined in the California Community Care Facilities Act, California Health & Safety Code Section 1500 et. seq. **B**) a licensed "residential care facility for the elderly", as that term is defined in the Residential Care Facilities for the Elderly Act, California Health & Safety Act, Section 1569 et. seq., **C**) a licensed "congregate care" or "intermediate care facility, as defined in California Health & Safety Code Section 1250, or **D**) a licensed Alcohol and Drug Abuse Recovery Treatment Center, as defined in the Uniform Controlled Substances Act, California Health & Safety Code Section 11000 et seq. (Ord. 2005-03).

FAMILY DAY CARE HOME shall mean a home which regularly provides care, protection, and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and includes the following:

"Large Family Day Care Home" shall mean a home which provides family day care to 7 to 12 children, inclusive, including children under the age of 10 years who reside at the home, as defined above; (Ord. 92-28)

"Small Family Day Care Home" shall mean a home which provides family day care to 6 or fewer children, inclusive, including children under the age of 10 years who reside at the home, as defined above. (Ord. 92-28)

FILL: Pursuant to Section 30108.2 of the Public Resources Code as amended, "fill" means earth or any material or substance, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area. (Ord. 95-04)

FIRST PUBLIC ROAD PARALLELING THE SEA: Pursuant to Section 13577(i) of Title 14 of the California Code of Regulations as amended, the "first public road paralleling the sea" shall mean that road nearest the sea, as defined in this Chapter which is: (Ord. 95-04)

- A. Lawfully open and suitable for uninterrupted use by the public;
- B. Maintained by a public agency;

- C. An improved, all-weather road open to motor vehicle traffic in at least one direction;
- D. Not subject to any restrictions on use by the public except during an emergency or for military purposes; and
- E. Connected with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

Whenever no public road can be designated which conforms to all provisions of A. through E. above, and a public road does exist which conforms to all provisions of A. through D. above, the effect of designating the first public road paralleling the sea shall be limited to all parcels between the Pacific Ocean and such other public road; and those parcels immediately adjacent to the sea inland of such other public road. (Ord. 95-04)

FLEET STORAGE shall mean storage or parking of one or more vehicles used regularly in business operations. Excluded from this use type are automotive and equipment; sales/rentals; and the incidental parking of vehicles as an accessory use to a permitted use on the same premise. Typical uses include taxi fleets, mobile catering, truck storage or delivery truck fleets. (Ord. 91-03)

FLOODPLAIN shall mean the channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater; specifically, those areas shown as subject to inundation on the flood insurance rate maps published by the Federal Emergency Management Agency or the current City maps designating floodplains.

FLOODWAY shall mean the channel of a natural stream or river and portions of the floodplain adjoining the channel which are reasonably required to carry and discharge floodwaters; specifically, areas shown as flood channels on the flood insurance rate map as published by the Federal Emergency Management Agency or the current City maps designating floodways.

FLOOR AREA shall mean the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts, counts and architectural projections not utilized as livable area. (Ord. 2003-10.)

FLOOR/AREA RATIO is the numerical value, expressed as a decimal fraction obtained by dividing the total floor area by the gross lot area of the lot or lots on which one or more structures are located. (Ord. 2003-10).

For purposes of determining FAR, the following floor area is excluded: (Ord. 2003-10).

- A. Up to 400 square feet per dwelling unit for a garage or carport.
- B. Floor area covered by a roof of open construction, such as a trellis, sunscreen or lattice work, where the total square footage of the open spaces of the covering is fifty percent (50%) or more of the total square footage of the floor area below.
- C. Floor area whose walls are of open construction, such as a trellis, sunscreen or lattice work, or partial wall where fifty percent (50%) or more of the total square footage of the vertical planes of the perimeter of the bulk floor area is open. Columns to support structure above shall not count toward this 50%, such that typical open building recess areas and patios are not counted as floor area.
- D. Floor area which has less than five feet of headroom between the floor and the ceiling.
- E. That portion of the floor in the basement.
- F. Floor area used solely for the capture, distribution or storage of solar energy.

FOOT-CANDLE shall mean a quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot. (Ord. 2003-10).

FRONTAGE shall mean the length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

FULLY SHIELDED shall mean an outdoor light fixture shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted. (Ord. 2003-10).

GARAGE shall mean a detached accessory building or a portion of a main building on the same lot for the parking and temporary storage of vehicles of the occupants of the premises.

GENERAL PLAN shall mean the General Plan of the City of Encinitas and shall consist of the General Plan Maps and Elements adopted by the City Council.

GRADE shall mean the average level of the finished ground surfaces within a twenty (20) foot area surrounding a building. When measuring building height, the lower of natural or finished exterior grade shall be at any point adjacent to the structure. (Ord. 89-41)

GROSS AREA shall mean the total horizontal area within the lot lines of a lot or parcel of land before public or private streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

GROUP RESIDENTIAL shall mean shared living quarters, occupied by more than one person, which lack separate kitchen and bathroom facilities for each room or unit, as well as shared living quarters occupied by two or more persons not living together as a single housekeeping unit. This classification includes boarding houses, dormitories, fraternities, sororities, and private residential clubs, but excludes residential care, general and residential care, limited. (Ord. 2005-03).06/95

GUEST HOUSE shall mean an accessory building which is designed to be occupied by one (1) or more guests on a temporary basis (no more than 30 consecutive days) which has no kitchen facilities and is not rented or otherwise used as a separate dwelling.

HABITABLE SPACE shall mean a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.

HIGHWAY shall mean a street shown as a freeway, prime arterial, or major street on the General Plan of the City.

HOME OCCUPATION shall mean an occupation customarily conducted as an accessory use to a residential use entirely within a building containing a residential use or an attached garage.

HOSPITAL shall mean an institution for the diagnosis, care, and treatment of human illness, including surgery and primary treatment.

HOTEL shall mean a structure or portion thereof or groups of attached guest rooms or suites occupied on a transient basis for compensation.

INLAND EXTENT OF THE BEACH: Pursuant to Section 13577(g)(1) through Section 13577(g)(3) of Title 14 of the California Code of Regulations as amended, the "inland extent of the beach" shall be determined as follows: (1) from a distinct linear feature (e.g. a seawall, road, or bluff, etc.); (2) from the inland edge of the further inland beach berm as determined from historical surveys, aerial photographs and other records or geological evidence; or (3) where a beach berm does not exist, from the further point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence. (Ord. 95-04)

INOPERATIVE ACTIVITY shall mean a business or activity that has ceased operation, except for temporary closures for repairs, alterations, or other similar situations at any given location for a period of at least 30 days.

JUNK shall mean used machinery, scrap iron, steel, other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials or other waste which has been abandoned from its original use and may be used again in its present or in a new form.

JUNKYARD shall mean any parcel, lot contiguous lots or portions thereof used for the keeping, storage, or salvaging of junk, or containing any activity in the Scrap Operations use type.

KENNEL shall mean any property where six (6) or more dogs or cats or similar small animals, over the age of four months, are kept or maintained for commercial purposes.

KITCHEN any room used or intended or designed to be used for cooking or the preparation of food, including any room having a sink and either a 3/4 inch gas opening or provision for an electric stove.

LAMP shall mean a light bulb. (Ord. 2003-10).

LEGAL shall mean authorized or permitted in accordance with defined procedures by ordinance or law.

LEGAL LOT shall mean (1) a parcel of real property shown as a delineated parcel of land with a number or letter designation, or a subdivision map, or parcel map recorded in the office of the County Recorder and created in conformance with the State Subdivision Map Act; 2) a parcel of real property shown on a recorded record of survey map, lot division plat, or other official map filed in the office of the County Recorder or County Engineer, or County Director of Planning when such map or plat was filed as the result of and was made a condition of a lot division approved by the County of San Diego under the authority of prior or existing County Ordinances; 3) any parcel of real property which existed as a separate parcel on or before March 4, 1972, as evidenced by a valid deed recorded on or before that date; 4) a parcel of real property described in a recorded Certificate of Compliance, approved and filed by the County of San Diego or the City of Encinitas in accordance with the State Subdivision Map.

LIGHT SOURCE shall mean the element of a lighting fixture that is the point of origin of the lumens emitted by the fixture. (Ord. 2003-10).

LIVING UNIT means a unit that provides the basic amenities for everyday living and includes but is not limited to a sleeping area, closet space, restroom, sitting/entertainment area, incidental kitchen facilities and/or common dining and recreational facilities.

LOADING SPACE shall mean an area, other than a street or alley, on the same lot with a building or a group of buildings which is permanently reserved and maintained for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOCAL COASTAL PROGRAM: Pursuant to Section 30108.6 of the Public Resource Code as amended, "local coastal program" shall mean a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps and (d) other implementing actions, which, at the local

level and when taken together, meet the requirements of, and implement the provisions and policies of Division 20 of the Public Resources Code, as amended. (Ord. 95-04)

LOT shall mean:

A. A parcel of real property with a separate and distinct number or other designation shown on a plat recorded in the office of the County Recorder, or

B. A parcel of real property delineated on an approved record of survey, parcel map or subdivision map as filed in the office of the County Recorder or in the office of the Community Development Department, and abutting at least one (1) public street or right-of-way, or easement determined by the City Engineer to be adequate for the purpose of access, or

C. A parcel of real property abutting at least one (1) public street or right-of-way or easement determined by the City Engineer to be adequate for the purpose of access and held under separate ownership from abutting property prior to February 1, 1972.

LOT AREA, GROSS shall mean the total area of a legally created parcel including:

A. All private streets and other easements (such as open space easements) where the underlying property is held in fee title.

B. The area to the centerline of any abutting Non-Circulation Element Route public street right-of-way, and

C. Only the 30 foot local interest portion of any abutting Circulation Element Route street right-of-way shall be included.

LOT, CORNER shall mean a lot located at the intersection or interception of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". See "LOT, INTERIOR" for further clarification. (Ord. 2006-06)

LOT COVERAGE is that percentage of a lot, exclusive of the ultimate street right-of-way, which when viewed directly from above, would be covered by the floor area of the building or buildings. Minor accessory structures such as patio covers, porches, open exterior decks and balconies, roof overhangs, pools, spas, freestanding open air gazebos and patios/decks shall not count toward the lot coverage requirement. (Ord. 2003-10).

LOT DEPTH shall mean the average horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT, FLAG shall mean a lot which utilizes a narrow strip as its means of providing frontage on a street and/or providing vehicular access to the lot.

LOT, INTERIOR shall mean a lot other than a corner lot. An interior lot shall also mean a lot abutting a private street or private easement when all four of the following criteria are met: 1) a side lot line abuts a private street or private easement; and 2) the private street or private easement has the potential to provide access to no more than ten dwelling units; and 3) the private street or private easement is less than 24 feet in recorded width; and 4) the subject property abutting the private street or private easement does not have legal and/or recorded vehicular access over the private street or easement. (Ord. 2006-06)

LOT LINE shall mean a line bounding a lot as herein defined.

LOT LINE, FRONT shall mean on an interior lot, the front lot line is the property line abutting the street. On a corner or reverse corner lot, the front lot line is the shorter property line abutting a street, except in the following cases: 1) where the subdivision or parcel map specifies another line as the front lot line, or 2) where the setbacks for an existing home identify the front and rear lot lines as being the longest property line; in this case the Director of Planning and Building shall determine which property line shall be the front lot line. Similarly, the Director or authorized agency may allow the longest property line to be the front lot line where such a designation would result in a building envelope consistent with the character of surrounding development. On a through lot or a lot with three (3) or more sides abutting a street or a corner or reverse corner lot with lot lines of equal length, the Planning and Building Director of Planning and Building Department shall determine which property line shall be the front lot line for the purposes of compliance with yard and setback provisions of this Ordinance. On a private street or easement, the front lot line shall be designated as the edge of the easement. (Ord. 2003-10).

LOT LINE, INTERIOR shall mean a side lot line not abutting a street. An interior side lot line shall also apply when all four of the following criteria are met: 1) a side lot line abuts a private street or private easement; and 2) the private street or private easement has the potential to provide access to no more than ten dwelling units; and 3) the private street or private easement is less than 24 feet in recorded width; and 4) the subject property abutting the private street or private easement does not have legal and/or recorded vehicular access over the private street or easement. (Ord. 2006-06)

LOT LINE, PANHANDLE shall mean a lot where a portion of the lot is less than 35 feet wide for a distance of 50 feet or more and which is designed or used to provide pedestrian or vehicle access to the part of the lot which is designed for use as a building site. In the case of an irregularly shaped lot, the authorized agency shall have the authority to determine whether a lot shall be considered a panhandle lot for purposes of applying the zoning standard. (Ord. 2003-10).

LOT LINE, REAR shall mean a lot line not abutting a street and which is opposite and most distant from the front lot line. For panhandle shaped lots and lots at the terminus of a private road or easement the Planning and Building Director shall determine which property line shall be the rear lot line for purposes of compliance with yard and setback provisions of this ordinance. This would typically be the shortest lot line most distant from the terminus of the panhandle or private road easement. The Director shall consider the existing envelope of development onsite when making such a determination, and, when no clear indication is present from existing development or historic building records, the Director shall have discretion to designate the rear lot line for a panhandle lot. In the case of an irregular-shaped lot, a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet shall be considered the rear lot line for purposes of measuring the rear setback. A lot which is bounded on all sides by streets may have no rear lot line. (Ord 2003-10).

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

LOT, THROUGH shall mean a lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH shall mean the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LUMEN shall mean a quantitative unit measuring the amount of light equal to the amount of light emitted in a unit solid angle by a uniform point source of one candle intensity. (Ord. 2003-10).

MAIN BUILDING shall mean a building or structure which is devoted primarily to a principal use or uses; or, the only building on a lot or building site.

MAJOR ENERGY FACILITY: Pursuant to Section 13012 of Title 14 of the California Code of Regulations as amended, "major energy facility" shall mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624. (Ord. 95-04)

MAJOR POWER TRANSMISSION EASEMENT shall mean SDG&E major power transmission easements.

MAJOR PUBLIC WORKS: Pursuant to Section 13012 of Title 14 of the California Code of Regulations as amended, "major public works" shall mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624. (Ord. 95-04)

MASONRY WALL shall mean a solid wall composed of stone, brick, concrete, gypsum, hollow clay tile, concrete block or tile or other similar building units or materials or a combination of these materials laid up unit by unit and set in mortar.

MASSAGE PARLOR shall mean an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation unless such treatment is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the State of California. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MEDICAL COMPLEX shall mean a development including several medical services under one, integrated complex typically with a medical hospital as the most significant principal use; other principal uses may include doctors' offices, laboratories, medical research facilities, out-patient clinics, pharmacies, and other out-patient services. All uses are integrated functionally on the single complex with shared parking, ingress/egress, building design and landscaping.

MEZZANINE OR MEZZANINE FLOOR shall mean an intermediate floor placed in any story or room. When the total area of any such Mezzanine Floor exceeds 33 1/3 percent of the total floor area in that room, it shall be considered as constituting an additional story. The clear height above or below a Mezzanine Floor construction shall be not less than 7 feet. An enclosed Mezzanine shall be counted as a story.

MOBILEHOME shall mean a movable or transportable vehicle, other than a motor vehicle, designed as a permanent structure intended for occupancy for one family and having no foundation other than jacks, piers, wheels, or skirtings.

MOBILEHOME UNIT SPACE shall mean a plot of ground within a mobilehome park designed for the accommodation of one mobilehome unit.

MOTEL shall mean the same as "hotel".

MUSEUM shall mean a non-profit institution displaying or preserving objects of artistic, scientific, cultural or historic value, and optionally creating objects with these values for the purpose of display on site. (Ord. 2001-08).

NET ACREAGE for the purpose of calculating density, shall mean the slope adjusted unconstrained gross acreage within the subject property. Constrained acreage shall include flood plains, beaches, permanent bodies of water, significant wetlands, major power transmission easements, railroad track beds, existing and future right-of-way and easements for public or private streets/roads, and the area contained within the panhandle portion of a panhandle lot in a zone where the minimum required lot size is 10,000 square feet or less. (Ord. 97-17).

NET LOT AREA shall mean total area exclusive of street within the boundary lines of a lot and the area contained within the panhandle portion of a panhandle lot in a zone where the minimum required lot size is 10,000 square feet or less. (Ord. 97-17).

NONCONFORMING LOT shall mean a lot, the area, frontage or dimensions of which do not conform to the provisions of this Code.

NONCONFORMING STRUCTURE shall mean a building, structure or portion thereof which was lawful when established but which does not conform to the provisions of this Code.

NONCONFORMING USE shall mean a use lawful when established but which does not conform to the provisions of this Code.

OUTDOOR LIGHT FIXTURE shall mean an outdoor artificial illuminating device, outdoor fixture, lamp, and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. (Ord. 2003-10).

PACKING (Agriculture/Horticulture) shall mean the packing of fresh agricultural and horticultural products including the customary preparation for market of fresh produce and flowers produced both on and off premises. Assembly of boxes, cartons, crates and pallets for handling and transporting crops provided this use is accessory to agricultural or horticulture packing on the premises shall be permitted. (Note: There shall be no utilization of processes which result in substantial change in identity of the agricultural or horticultural product.) (Ord. 94-11)

PARCEL shall mean a contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person.

PARK shall mean any park, playground, swimming pool, golf course within the City which is under the City's control, operation and management. (Ord. 2002-02).

PARKING AREA shall mean an open area, other than a street or alley, which contains 5 or more motor vehicle parking spaces.

PARKING SPACE shall mean an unobstructed space or area other than a street or alley which is permanently reserved and maintained for the parking of one motor vehicle.

PARKWAY means that area of a public street that lies between the curb and sidewalk or between the sidewalk and the property line, or between the curb/edge of pavement and the property line of the adjacent property owner, which is used for planting purposes.

PLANNED RESIDENTIAL DEVELOPMENT shall mean two or more dwelling units, including dwelling units in developments commonly known as town or rowhousing, condominiums and cluster housing, together with related land, buildings and structures, planned and developed as a whole in a single development operation or a programmed series of operations in accordance with detailed, comprehensive plans encompassing such elements as the circulation pattern and parking facilities, open space, utilities, and lots or building sites, together with a program for provision, operation and maintenance of all areas, improvements, facilities and services provided for common use of the residents thereof.

POULTRY shall mean chickens, turkeys, ducks and geese.

PRINCIPAL USE(S) Shall mean the primary use(s) for which land or a building is or may be intended, occupied, maintained, arranged or designed.

PSYCHIATRIC FACILITY shall mean an institution in which care or treatment is given to persons suffering from mental illness, disease, disorder or ailment. Such facilities include, but are not limited to, psychiatric hospitals, day care treatment hospitals, long term care facilities, resident treatment centers, family homes (mentally ill), alcoholism, hospital, and facility for admission of drug addicts all as defined in Article 2 of Subchapter 1 of the Title 9 of the California Administrative Code.

PUBLIC RIGHT-OF-WAY shall mean a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other public uses.

PUBLIC TRUST LANDS: Pursuant to Section 13577(f) of Title 14 of the California Code of Regulations as amended, "public trust lands" shall mean all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation and other public purposes. Public trust lands include tidelands, submerged lands, beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time. (Ord. 95-04)

PUBLIC UTILITY SERVICE YARD shall mean a lot or portion of a lot containing a public or semi-public use for the purposes of servicing and maintaining public facilities, such as, utilities, streets, drainage facilities, parks, beaches, environmental resources, open space, and the like. Maintenance and services type uses allowed on the lot include office, indoor and outdoor

storage of supplies and materials, vehicles for maintaining such facilities, vehicle and equipment repair, and other similar type uses authorized through the use permit process. (Ord. 2006-06)

PUBLIC WORKS: Pursuant to Section 30114 of the Public Resources Code as amended, "public works" shall mean the following: (Ord. 95-04)

- A. All production, storage, transmission and recovery facilities for water, sewerage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities.
- B. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires and other related facilities.
- C. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and development by a special district.
- D. All community college facilities.

RECYCLING FACILITY shall mean a center for the collection and/or processing of recyclable material.

RECYCLING COLLECTION FACILITY shall mean a center for the acceptance, by donation, redemption, or purchase, of recyclable material from the public.

RECYCLING PROCESSING FACILITY shall mean a building or enclosed space used for the collection and processing of recyclable materials.

RECREATIONAL FACILITIES, PUBLIC AND SEMI-PUBLIC shall mean swimming pools, tennis courts, paddle tennis courts, and other similar uses as determined by the Planning and Building Director, which are available for use by persons who do not reside in the project (includes membership clubs.) (Ord. 2003-08).

REFUSE DISPOSAL SITE shall mean an area devoted to the disposal of refuse, including incineration, reduction, or dumping of ashes, garbage, combustible or noncombustible garbage or refuse, offal or dead animals.

RELIGIOUS INSTITUTION shall mean a structure or facility that is used primarily for religious worship and related religious activities. (Ord. 2002-02).

REMODEL (See Building Remodel for definition). (Ord. 89-41)

RESIDENTIAL CARE, LIMITED: shall mean shared living quarters (without separate kitchen and bathroom facilities for each room or unit) for **six or fewer persons** with physical or mental impairments that substantially limit one or more of such person's major life activities. This classification includes, but is not limited to group homes, recovery facilities, and other establishments providing non-medical care for persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Childrens' Homes, Congregate Housing/ Independent Living/Retirement Homes, Congregate Care Facilities/Assisted Living/Board and Care, Convalescent Home/Skilled Nursing Facility, Foster Care Home, Transitional Housing and Treatment Center for Substance Abuse are also included in this classification. (Ord. 2005-03).

RESIDENTIAL CARE, GENERAL: shall mean shared living quarters (without separate kitchen or bathroom facilities for each room or unit) for **seven or more persons** with physical or mental impairments that substantially limit one or more of such person's major life activities when such persons are not living together as a family. This classification includes, but is not limited to group homes, recovery facilities, and other establishments providing non-medical care for persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. Childrens' Homes, Congregate Housing/ Independent Living/Retirement Homes, Congregate Care Facilities/Assisted Living/Board and Care, Convalescent Home/Skilled Nursing Facility, Foster Care Home, Transitional Housing and Treatment Center for Substance Abuse are also included in this classification. (Ord. 2005-03).

RESIDENTIAL ZONE shall mean any property within the City which carries a zoning designation permitting the location of a residence, including the RRFP [Rural Residential/Flood Plan]; RR [Rural Residential]; RR-1 [Rural Residential 1]; RR-2 [Rural Residential 2]; R-3 [Residential 3]; R-5 [Residential 5]; R-8 [Residential 8]; RS-11 [Single Family Residential 11]; R11 [Residential 8.01-11.0 dwelling units per acre ("du/ac")]; R-15 [Residential 15]; R-20 [Residential 20]; R-25 [Residential 25]; MHP [Mobile Home Park]; D-R11 [Residential 8.01-11.0 du/ac]; D-R15 [Residential 11.01-15.0 du/ac]; D-R25 [Residential 15.01-25.0 du/ac]; ER-SFR3 [Encinitas Ranch Specific Plan Residential 3.0 du/ac]; ER-SFR3V [Encinitas Ranch Specific Plan Residential 3.0 du/ac variance]; ER-SFR5 [Encinitas Ranch Specific Plan Residential 5.0 du/ac]; N-R3 [Residential 2.01-3 du/ac]; N-R8 [Residential 5.01-8 du/ac]; N-R11 [Residential 8.01-11 du/ac]; N-R15 [Residential 11.01-15 du/ac]; N-R20 [Residential 15.01-20 du/ac]; and N-R25 [Residential 20.01-25 du/ac]. However, residential zone does not include zones where a residence is permitted pursuant to a conditional use permit or other special permit. (Ord. 2002-02).

RIGHT-OF-WAY shall mean an area or strip of land, either public or private, acquired by reservation, dedication, prescription, or condemnation, and intended to be occupied by a road, trail, railroad, utilities, and similar uses.

ROOF shall mean the external covering of a building or structure above or covering any exterior or interior vertical wall height.

ROOFLINE shall mean the top edge of the roof or top of the parapet, whichever forms the top line of the building silhouette.

SATELLITE DISH ANTENNA shall mean a device incorporating a reflective surface that is solid, open mesh, or bar-configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TUROs and satellite microwave antennas.

SCHOOL shall mean any institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and/or which is maintained pursuant to standards set by the Board of Education of the State of California. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education under the jurisdiction of the California Department of Education. For the purposes of this Section, "school" does not include a vocational or professional institution of higher education, including a community or junior college, college, or university. (Ord. 2002-02).

SEA: Pursuant to Section 30115 of the Public Resources Code as amended, "sea" shall mean the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels. (Ord. 95-04)

SECONDARY USE shall mean a purpose for which land or a building is or may be intended, occupied, maintained, arranged, or designed, which is less visible, prominent, or important than the principal use(s) on the same lot or parcel. A secondary use may but need not be an accessory use to the principal use(s).

SERVICE STATIONS shall mean the same as "Automobile Service Station".

SETBACK, FRONT YARD shall mean the area which defines the depth of the required front yard. Said setback shall be measured from the street line or the line established by the General Plan Circulation Element, from private roads and panhandles, and be measured therefrom by the perpendicular distance prescribed for the front yard setback of the zone in which the property is located.

SETBACK, REAR YARD OR SIDE YARD shall mean the area that defines the width or depth of the required rear or side yard setbacks. Said setbacks shall be measured from the property line, removed therefrom by the perpendicular distance prescribed for the yard setback in the zone.

Where the side or rear yard abuts a street and the side yard lot line is not otherwise an interior lot line, the distance shall be measured as set forth in "Setback, Front Yard." Side yard setbacks are identified in terms such as 10'/10' noting the minimum setback for each side yard. See "Lot Line, Interior" for further clarification. (Ord. 2006-06)

SEXUALLY ORIENTED MERCHANDIZE shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

SIDEWALK CAFE shall mean an area adjacent to and directly in front of a street level eating or drinking establishment located within the sidewalk area of the public right-of-way used exclusively for dining, drinking and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing or landscaping planter boxes or a combination thereof.

SIGN, PORTABLE shall mean a parked or stationary outdoor advertising sign, or a sign that is not a structure, or a sign located upon a vehicle or trailer for the basic purpose of providing advertisement of products or directing people to a business or activity located in the same or nearby property, placed or parked so as to be visible from the public right-of-way, but not including signs on business or commercial vehicles, the primary purpose of which is the transporting of people and goods on the public right-of-way.

SIGN, PROJECTING shall mean any sign other than a wall sign which is attached to and projects from the wall or face of a building or structure including an arcade/marquee sign.

SIGN, ROOF shall mean any sign erected, painted upon, against, or directly above a roof or on top of or above the parapet of a building, and which is supported wholly or in part by said building. Any sign mounted upon its own standard which is supported wholly by structural anchorage to the ground, or mounted upon any accessory structure which does not constitute a building, shall be considered a roof sign where such sign projects over the roof of a building. Any roof, the slope of which varies not more than 45 degrees from a vertical plane, shall be considered wall space for the purpose of placement of wall signs.

SIGN, WINDOWS shall mean any sign temporarily affixed to or displayed on the interior of an establishment so as to be readable from the exterior thereof shall be considered a wall sign.

SITE PLAN shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, all of the buildings, structures and uses and the exact manner of development proposed for a specific parcel of land.

SMALL ANIMALS shall mean pygmy goats, pigs, goats, sheep, poultry, rabbits, miniature horses, domestic animals and other such comparably sized animals distinguished from those described as large animals.

SPECIFIC ANATOMICAL AREAS shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

SPECIFIED SEXUAL ACTIVITIES shall be defined as set forth in Chapter 6.10. (Ord. 2002-02).

STABLE, COMMERCIAL shall mean equestrian facilities such as, but not limited to, riding academies, riding rings, or training areas for horses, mules, donkeys or ponies which are rented, shown, used or boarded on a commercial basis for compensation. Accessory uses such as tack shops, on-site sale of food for people and animals, or similar uses may be permitted. Minimum lot size of ten (10) acres is required, or as otherwise approved through the planning process. A Major Conditional Use Permit is required for this use to regulate, among other concerns, traffic, accessory uses, the number of animals allowed per site, the management of animal waste to prevent discharges of sediments, nutrients and contaminants to streams, wetlands, estuaries, lakes and groundwater, business hours and the number of events per year. (Ord. 95-20).

STABLE, PRIVATE shall mean facilities for the keeping of horses, mules, donkeys or ponies for the use of the owners or lessees of the property and owners of the boarded animals. Private use exceeding that number of animals permitted pursuant to Municipal Code Chapter 30.55 will require a Minor Use Permit to regulate, among other concerns, the management of animal waste to prevent discharges of sediments, nutrients and contaminants to streams, wetlands, estuaries, lakes and groundwater. (Ord. 95-20).

STORAGE OF NONOPERATING VEHICLES shall mean the storage of nonoperating motor vehicles and shall not include automobile wrecking. The presence on any lot or parcel of land of 1 or more motor vehicles not within an enclosed structure which for a period exceeding 30 days have not been capable of operating under their own power, and from which no parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of the storage of nonoperating motor vehicles.

STORAGE AND PREPARATION OF VEHICLES WITHIN THE PUBLIC/SEMI PUBLIC ZONE (ASSOCIATED WITH NEW CAR DEALERSHIPS) shall mean the storage of new and used vehicles (associated with a new car dealership) on a lot or parcel of land owned and controlled by a governmental agency. Primary activities shall be limited to the delivery, parking and storage of new and used vehicles. Incidental uses to the storage of new and used vehicles shall be limited to vehicle preparation activities associated with preparing new and used vehicles for transfer to the dealership lot, and associated administrative activities. Vehicle preparation activities may include inspection for damage, installation of accessory parts (i.e. antennas, floor mats, hubcaps, roof racks, interior and exterior trim, windshields, etc.), installing new tires and brakes, and detailing, including washing, polishing, waxing, dressing tires, cleaning interiors, and steam cleaning engines. Minor vehicle maintenance may also be permitted and shall be limited to minor maintenance functions necessary to prepare vehicles for

transfer to the dealership lot. Minor maintenance activities may include, minor engine tune-ups, oil changes, service of air-conditioning systems, repair of electronic equipment, and adding coolant to radiators. More involved mechanical repairs or maintenance shall be prohibited, including the repair or replacement of engines, transmissions, etc., aligning, repairing or replacing body components or body painting. In addition, only employees of the new car dealership and drivers of car carrier trucks shall be permitted to access the vehicle storage site, no customers shall be permitted on the vehicle storage site. (Ord. 2000-15).

STORY shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

STREET shall mean a public thoroughfare or right-of-way or approved private thoroughfare or right-of-way determined by the City Engineer to be adequate for the purpose of access, which affords the principal means of access for abutting property including avenue, place, way, drive, land, boulevard, highway, road and any other thoroughfare, except as excluded in this Code. The word "street" shall include all major and secondary highways, traffic collector streets, and local streets.

STRUCTURE shall mean a mobilehome or anything constructed or erected, building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on or in the ground or is attached to something having a location on or in the ground, including swimming and wading pools and covered patios, excepting paved areas, walks, tennis courts, and similar outdoor areas, and further excepting fences or walls six (6) feet or less in height.

STRUCTURAL ALTERATION shall mean any change in or alteration to a structure involving a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, retaining walls, or similar components.

SUBMERGED LANDS: Pursuant to Section 13577(e) of Title 14 of the California Code of Regulations as amended, "submerged lands" shall mean lands which lie below the line of mean low tide. (Ord. 95-04)

SUBSTANTIAL IMPROVEMENT shall mean any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or (2) any

alteration of a structure listed on the National Register or Historic Places or State inventory Historic Places.

TATTOO PARLOR establishment means any premises where a tattoo artist does tattooing for a fee or for other considerations. For purposes of this code, TATTOOING means any method of placing designs, letters, scrolls, figures, symbols, or any other indelible marks (except as defined in "Cosmetic Design Studio") upon or under the skin with ink or colors, by the aid of needles or instruments. (Ord. 97-17)

TIDELANDS: Pursuant to Section 13577(d) of Title 14 of the California Code of Regulations as amended, "tidelands" shall mean lands which are located between the line of mean high tide and mean low tide. (Ord. 95-04)

TIME-SHARE ESTATE Shall mean a right of occupancy in a time-share project which is coupled with an estate in the real property. (Ord. 97-17)

TIME-SHARE PROJECT Shall mean a project in which a purchaser receives a right in perpetuity, for life, or for a term of years, to the recurrent exclusive use or occupancy of a lot, parcel, unit or segment of real property annually or on some other periodic basis, for a period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided. (Ord. 97-17)

TIME-SHARE USE Shall mean a license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property. (Ord. 97-17)

TRANSIENT HABITATION UNIT Shall mean living quarters intended exclusively for occupancy by transient persons for a period of 30 consecutive days or less and subject to Chapter 3.12 of the Municipal Code, Transient Occupancy Tax . A transient habitation unit may include a hotel or motel room or suite of rooms, a cabin or campground space, but does not include single family or duplex units. (Ord.. 97-17).

TRANSITIONAL HOUSING - This use is designed to be transitional to more permanent housing for homeless individuals and families, once they have had an opportunity to solve their employment, transportation, child care, and other problems related to homelessness. Social service programs, child care, and similar support services for the resident households may also be provided as part of a transitional housing facility. Transitional Housing facilities should specifically be limited in terms of the length of time they are available to individual households (e.g., 180 days) to make room for other homeless households. Parking standards would be established by preparing a parking study through the use permit process. (Ord. 92-17)

USE shall mean the purpose for which land or a building is arranged, designed, or intended, or for which either land or building is or may be occupied or maintained.

WETLANDS: Pursuant to Section 30121 of the Public Resources Code as amended, "wetlands" shall mean lands within the coastal zone which may be covered periodically or

permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. (Ord. 95-04)

 WHOLESALING shall mean the selling of any type of goods for purpose of resale.

 YARD shall mean any open space on the same lot with a building or dwelling which open space is unoccupied and unobstructed except for the projections permitted by this Code.

 YARD, FRONT shall mean a space between the front yard setback and the front line or future street line, and extending the full width of the lot.

 YARD, REAR shall mean a space between the rear yard setback and the rear lot line, extending the full width of the lot.

 . YARD, SIDE shall mean a space extending from the front yard, or from the front yard lot line where no front yard is required by this Code, to the rear yard or rear lot line.

 ZONING CODE AND/OR ORDINANCE shall mean the zoning regulations of the City of Encinitas.