

**Proposition A: The Encinitas Right to Vote Amendment**  
*May 2013*

**SDCTA Position:**

**OPPOSE**

**Rationale for Position:** This measure would require voter approval of General Plan amendments and specific plans, adding an unnecessary and costly step to a process that already allows for extensive community input. Land use planning decisions ought to be made by policymakers, not at the ballot box.

**Title:** Proposition A: The Encinitas Right to Vote Amendment

**Jurisdiction:** City of Encinitas

**Type:** Initiative

**Vote:** Majority

**Status:** Special Election – June 18, 2013

**Issue:** On February 13, 2013, the Encinitas City Council accepted the City Clerk's Certification of an initiative petition entitled "The Encinitas Right to Vote Amendment". The City Clerk certified the initiative petition filed on December 17, 2012, as sufficient and stated that it contained not less than 15% of the registered voters of the City of Encinitas. Citizens in Encinitas submitted 5,700 qualified signatures to place this measure on a special election ballot. On March 12, 2013, the city council voted to place the measure on special election ballot, as required by law, rather than adopting the initiative as an ordinance in its entirety.

**Description:** If approved by voters, the initiative would amend and become part of the Encinitas General Plan Land Use Element and Encinitas Zoning Code. The initiative would require that, in order to become effective, amendment to the city's Land Use Element text and maps, Zoning Code, Specific Plans and Development Agreements must both be adopted by the city council as ordinances and then be approved by the electorate.

**Fiscal Impact:** The cost of placing Proposition A on a special election ballot will cost an estimated \$350,000 to \$400,000. If future land use changes are placed on a regularly scheduled election ballot, the cost would total between \$35,000 and \$40,000. A special election to consider land use changes would cost between \$350,000 and \$400,000.

**Background:**

*Current Law*

The Encinitas General Plan and Zoning Code establishes land use and development regulations, and generally requires voter approval of any change in the density, intensity or type of allowed development. The Code exempts those changes that the city council finds, by a four-fifths vote; either is minor in nature or is a "significant public benefit." The General Plan and Zoning Code also generally limits building height to two stories or 30 feet, with lower limits for certain residential uses, and higher limits for certain medical developments and public high schools, and development pursuant to approved specific plans.

*Signature Drive*

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#### *Past SDCTA Position*

Most recently, the San Diego County Taxpayers Association opposed Proposition O in November 2008. Proposition O, which was voted down by voters in the City of San Marcos, stated, “No General Plan Amendment including Specific Plan adoptions or changes shall be adopted which would change, alter, or increase the General Plan Land Use categories or change any land use designations to any other...until such action is approved by a majority of those voting in a city wide election.”

SDCTA’s rationale for opposition stated that the measure, “would add an unnecessary and costly step to a process that already allows for extensive community input. Land use planning decisions ought to be made by policymakers, not at the ballot box.”

#### **Proposal:**

The question before voters will read:

“Shall the people of Encinitas adopt an initiative measure, known as “The Encinitas Right to Vote Amendment” to require voter approval, by a majority vote of the electorate, for a major amendment to a planning policy document (defined to mean the Land Use Element of the General Plan, Land Use Policy Maps of the General Plan, Zoning Code, Zoning Map, any specific plan, and development agreements) and to impose a citywide height limit?”

If approved by voters, the initiative would amend and become part of the Encinitas General Plan Land Use Element and Encinitas Zoning Code. The initiative would require that, in order to become effective, amendment to the city’s Land Use Element text and maps, Zoning Code, Specific Plans and Development Agreements must both be adopted by the city council as ordinances and then be approved by the electorate if the amendments have any of the following effects:

- Increase the maximum allowable number of dwelling units, or the maximum allowable commercial square footage, on any parcel or group of parcels;
- Either increase the maximum allowable number of separate residential parcels that may be created, or amend development standards that result in additional buildable residential parcels;
- Change the zoning for any parcel from certain open space or institutional zoning designation to other zoning designations;
- Increase the maximum allowable height of development, or the means by which height is measured; or
- Repeal any of the Planning Policy Documents

These actions are considered “Major Amendments” within the initiative and thus require voter approval to take effect. In order to approve any major or minor amendment, the city

council must hold a public hearing at least twenty days after written notice is sent by first class mail to all property owners and occupants of parcels within 500 feet from each parcel affected by the proposed amendment.

Lastly, the initiative restricts the height of any development in the city to the lower of two stories or 30 feet.

### **Policy Implications:**

#### *State and/or Local Government*

Subsequent to the city council's certification of the initiative petition, the council directed staff to prepare a report analyzing impacts of the initiative pursuant to Elections Code Section 9212. The report provides a summary of impacts related to the proposed "The Encinitas Right to Vote Amendment" initiative. Those impacts include, but are not limited, to the following:

- Effective date of the initiative will depend on its unconditional certification by the California Coastal Commission.
- Voter approval requirement and height restriction would conflict with the adopted Housing Element and make it difficult for the city to comply with State-mandated housing element updates.
- Voter approval requirements and height limits would make more difficult the city's required efforts to satisfy the Regional Housing Needs Assessment.
- Initiative could render the city's General Plan internally inconsistent and in violation of State law.

### **Fiscal Impact:**

The cost of the special election will cost the city an estimated \$350,000 to \$400,000.

#### *Costs Related to Ballot Measures*

If the City is the proponent of the measure, the City would be required to pay the cost of each major amendment that is subject to voter approval. The cost to place one measure on a general election ballot can range from \$35,000 to \$40,000. If a special election were to be held for an amendment, costs incurred by the City for the special election can range from \$350,000 to \$400,000.

If a major amendment is undertaken as part of an application for private development, it can be anticipated that the city would require the private applicant to pay for the cost of the election.

#### *Costs Related to Public Hearing*

City staff estimates that the cost of providing mailed notice to each property owner and occupant within Encinitas could range from \$15,000 to \$18,000 for each public hearing notice required by Proposition A. The current cost of publication of a hearing notice in a local newspaper is currently approximately \$200.

*Costs Related to Delayed or Forgone Development Activity*

In the past, development has allowed for generation of revenues that can be used to improve other infrastructure within the city. Sources of revenue include property tax and tax increment, sales tax, impact fees, and charges for service. A delay in development or a refusal by voters to approve a development project may hinder the ability of the City to recover those revenues to be used in other capacities.

**List of Proponents:**

- Bob Bonde, Leader of the Encinitas Incorporation Effort
- Bruce Ehlers, Former Encinitas Planning Commissioner
- Ian Thompson, Husband of Former Encinitas Councilmember, Maggie Houlihan
- Olivier Canler, Leader of Save New Encinitas
- Dennis Holz, Former Encinitas Mayor and Councilmember

**Proponent Arguments:**

- Proposition A guarantees right to vote on increases in zoning density or building heights above existing 30 foot/two-story height limit.
- Eliminates current loop-hole allowing up-zoning without a vote of the people.
- Proposition A will preserve and protect low density community character while putting responsible growth and development in the hands of voters.

**List of Opponents:**

- Teresa Barth, Mayor
- Lisa Shaffer, Deputy Mayor
- Kristin Gaspar, Councilmember
- Tony Kranz, Councilmember
- Mark Muir, Councilmember

**Opponent Arguments:**

- Prop A would undermine efforts supported by a decade of public input to revitalize Highway 101 in downtown and Leucadia.
- Makes changes in the Coastal Zone that could not be implemented without approval from the Coastal Commission.
- Proposition A will reduce the City's ability to manage state required growth.