

ORDINANCE NO. 2385

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 17.08 OF THE CHULA VISTA MUNICIPAL CODE RELATIVE TO ENCROACHMENTS INTO OPEN SPACE

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Section 17.08.020 of Chapter 17.08 of the Chula Vista Municipal Code is hereby amended to read as follows:

Sec. 17.08.020 Council authorization required when.

- A. All encroachments into open space maintenance districts shall be authorized by resolution of the city council, except those specifically delegated to the director of parks and recreation.
- B. Applications for permits for which the provisions of this chapter or schedule of fees do not properly apply shall require authorization by city council resolution.
- C. In all cases requiring authorization by resolution of the city council, the director of parks and recreation shall submit the application with his recommendations to the city manager for presentation to the city council. Upon approval of the city council, the director of parks and recreation shall collect the prescribed fees and issue the required permit.

SECTION II: That Section 17.08.030 of the Chula Vista Municipal Code is hereby amended to read as follows:

Sec. 17.08.030 Improvements not requiring council authorization-Temporary encroachments.

The director of parks and recreation is authorized to issue encroachment permits without prior authorization from the city council for the installation of the following improvements:

- A. Landscaping, as approved by the city's landscape architect or a maximum twenty-foot firebreak as approved by the director of parks and recreation. The encroachment shall be exempt from the permit fee authorized by section 17.08.480.
- B. Fences, in accordance with zoning and building codes which encroach less than a total of five hundred square feet into the open space;

- C. Retaining walls, in accordance with zoning and building codes, not to exceed eighteen inches in height and which encroach less than a total of five hundred square feet into the open space;
- D. Private utility service, including telephone, gas and electric, cable television and private lighting systems.

SECTION III: That Section 17.08.040 of the Chula Vista Municipal Code is hereby amended to read as follows:

Sec. 17.08.040 Maintenance and removal agreement-Required when-Contents.

Applications for encroachment permits for any buildings or structures of any nature shall be accompanied by an encroachment application fee in the sum of one hundred dollars, and an encroachment maintenance and removal agreement, which shall authorize the construction and use of the building or structure, and which shall be signed by the property owner and properly acknowledged. Said agreement shall be prepared by the director of parks and recreation and shall contain the following covenants with the city:

- A. The encroachment shall be installed and maintained in safe and sanitary condition at the sole cost, risk and responsibility of the owner and successor in interest, who shall hold the city harmless with respect thereto.
- B. The agreement is made for the direct benefit of the property owner's land, described in the agreement, and the covenants therein shall run with the property and shall be binding upon the assigns and successors of the owners.
- C. The encroachment shall be abandoned, removed or relocated by the property owner upon demand in writing by the director of parks and recreation. The property owner must remove or relocate said encroachment within thirty days after such notice, or within such longer period as may be provided specifically within said agreement in the instance of buildings or structures which would require a longer period to effectuate such removal or relocation. If the owner fails to remove or relocate the encroachment within the period allotted, the director of parks and recreation may cause such work to be done and the cost thereof shall be imposed as a lien upon the property.

SECTION IV: That Section 17.08.070 of Chapter 17.08 is hereby amended to read as follows:

Sec. 17.08.070 Insurance requirements- Exemptions- Liability agreements.

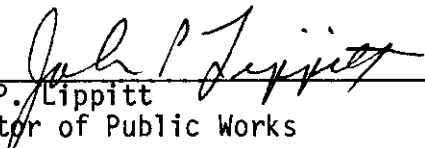
- A. The director of parks and recreation may require submission of insurance which has been approved by the city attorney, executed and delivered by a reliable insurance company authorized to carry on an insurance business in the state, by the terms of which said insurance company assumes responsibility for injuries to persons and property as a result of constructing the work as set forth in the permit. The insurance, when required, shall be in the following amounts:
 - 1. One hundred thousand dollars for property damage;
 - 2. Two hundred thousand dollars for death or injuries to any person in any one occurrence;
 - 3. Five hundred thousand dollars for death or injuries to two or more persons in any one occurrence.
- B. Governmental agencies, including the state of California and its political subdivisions, shall not be required to provide the insurance required by this section, but shall be required to hold the city harmless.
- C. Any permittee for whom insurance requirements have been waived shall be required to hold harmless and defend the city, its elective and appointive boards, officers, agents and employees from any liability for damage or claims for damage for personal injury, including death, as well as from claims which may arise from permittee, or any subcontractors or agents or employees thereof in performing under the permit.

SECTION V: That Section 17.08.080 of Chapter 17.08 of the Chula Vista Municipal Code is hereby deleted.

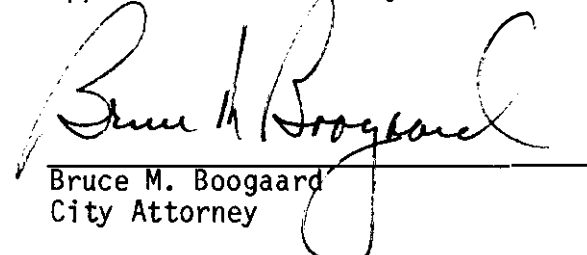
SECTION VI: This ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Presented by

Approved as to form by




John P. Lippitt
Director of Public Works



Bruce M. Boogaard
City Attorney

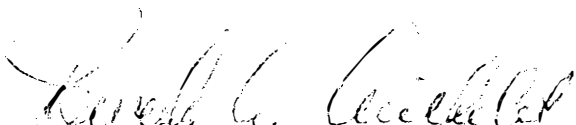
PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 7th day of August, 1990, by the following vote:

AYES: Councilmembers: Moore, Nader, Cox
NOES: Councilmembers: None
ABSENT: Councilmembers: Malcolm, McCandliss
ABSTAIN: Councilmembers: None



Gregory R. Cox, Mayor

ATTEST:




Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2385 had its first reading on July 24, 1990, and its second reading and adoption at a regular meeting of said City Council held on the 7th day of August, 1990.

Executed this 7th day of August, 1990.



Beverly A. Authelet, City Clerk