

ORDINANCE NO. 2439

AN ORDINANCE OF THE CITY OF CHULA VISTA REPEALING AND RE-ENACTING CHAPTER 2.26 AND AMENDING PORTIONS OF CHAPTERS 15.08, 15.16, 15.20, 15.28 AND 15.36 OF THE CHULA VISTA MUNICIPAL CODE RELATING TO THE BOARD OF APPEALS AND ADVISORS

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

SECTION I: Chapter 2.26 of the Chula Vista Municipal Code is hereby repealed.

SECTION II: Chapter 2.26 of the Chula Vista Municipal Code, to be entitled "Board of Appeals and Advisors" is added to the Chula Vista Municipal Code to read as follows:

CHAPTER 2.26 BOARD OF APPEALS AND ADVISORS

Sec. 2.26.010 Creation.

There is hereby created a Board of Appeals and Advisors.

Sec. 2.26.020 Purpose and Intent.

It is the purpose and intent of the City Council in establishing the Board of Appeals and Advisors to create an advisory body which would serve as a resource to advise and make recommendations to the City Council, the City Manager, the Director of Building and Housing and the Fire Chief on matters relating to building construction.

Another purpose of the Board is to act as administrative appellate review of decisions of such officers to abate public nuisances arising out of application of Uniform Codes.

Sec. 2.26.030 Functions and Duties.

The function and duties of the Board of Appeals and Advisors shall be as follows:

- A. Create a forum for city-wide discussions, research, and analysis of critical issues of building construction, including plumbing, mechanical and electrical installations.

- B. Where authorized by a Uniform Code adopted by the City to do so, investigate and advise as to the suitability of alternate materials, types of construction, and interpretation of said adopted Uniform Code.
- C. Conduct public hearings and recommend to the City Council, the passage of new legislation pertaining to the design and construction of buildings, including the minimum requirements for housing for the protection of life, limb, health, property, safety and welfare of the general public, installation of plumbing, mechanical and electrical work, and matters related to fire resistance, durability, and safety.
- D. Act as an administrative appellate body to hear appeals relating to determinations by the Fire Chief or Director of Building and Housing, pursuant to City-adopted Uniform Codes, that conditions or circumstances are public nuisances and should be abated. Such Codes include, but are not limited to the Uniform Building, Uniform Mechanical, Uniform Fire, Uniform Housing, Uniform Plumbing and National Electrical Codes as adopted from time to time by the City Council. Hearings of the Board shall be conducted in accordance with the procedures set forth in such Uniform Codes and particularly the Uniform Code for the Abatement of Dangerous Buildings. The decision of the Board shall be final.

Sec. 2.26.040 Membership.

A. Number of Members.

The Board shall consist of seven (7) Voting Members, and one (1) Staff Ex-officio Member, and such other General Ex-officio members of the Board as the City Council shall, from time-to-time, appoint.

B. Designation of Members.

1. Voting Members.

The seven (7) Voting Members shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600, et seq. of the Charter, who shall be residents of the City and who shall, throughout their term, maintain their residency and elector status.

2. Staff Ex-officio Member.

The one (1) Staff Ex-officio Member shall be the City Manager or his designated representative, who shall not be required to be a qualified elector of the City, and who shall have no vote ("Staff Ex-officio Member").

3. General Ex-officio Members.

The City Council, or its designee, may appoint such additional ex-officio members of the Board as they deem appropriate, who shall not be required to be qualified elector(s) of the City, but any such appointed ex-officio members shall have no vote ("General Ex-officio Member").

Sec. 2.26.050 Term of Office.

A. Term of Office--All Classes of Members.

1. Terms.

Except as otherwise provided in this Subsection A, the term of office of all members, and all classes of members, of said Board shall be for a nominal period of four (4) years, and shall terminate on June 30th of the fourth year of their term, unless they shall otherwise sooner resign, die, become disqualified or incompetent to hold office.

2. Terms of Existing Voting Members.

Notwithstanding subsection A.1, the terms of existing Voting Members of the Board of Appeals and Advisors serving under Chapter 2.26 repealed by Section I of this ordinance shall continue as if unaffected by said revocation, and shall conclude, for two (2) Voting Members on June 30, 1991; for two (2) Voting Members on June 30, 1992; for two (2) Voting Members on June 30, 1993; and for one (1) Voting Member on June 30, 1994, unless they shall otherwise sooner resign, die, become disqualified or incompetent to hold office.

3. Staff Ex-officio Member.

The term of the Staff Ex-officio Members shall be indefinite, and they shall serve at the pleasure of the Council.

4. General Ex-officio Member.

The term of General Ex-officio Members shall be for a period of four years from the time of appointment.

5. Holdover Office.

Notwithstanding the end of any Member's Term as herein provided, a Member, other than the Staff Ex-officio Members, shall be permitted to continue to exercise the privileges of his or her former office for not longer than two (2) months after the end of the term until the office to which the Member was appointed is filled by reappointment of a qualified successor.

6. Vacancies.

Notwithstanding the term of office to which a Member is appointed, said office shall be deemed vacant upon any of the following events ("Event of Vacancy"):

- a. The death or disability of said Member that renders said member incapable of performing the duties of office.
- b. The Member's conviction of a felony or crime involving moral turpitude.
- c. The Member's absence from three (3) regular, consecutive meetings of the Board, unless excused by majority vote of the Board expressed in its official minutes.
- d. The Member has submitted a resignation which resignation has been accepted by the City Council.
- e. The membership has been terminated by three affirmative votes of the City Council.

Upon the occurrence of an Event of Vacancy as hereinabove listed, the City Council shall so declare the office to be vacant, and shall expeditiously take such steps as are necessary to fill said vacancy.

B. Number of Terms.

a. Voting Members.

1. Two Term Limit. No Voting Member shall be appointed to more than two (2) terms except as herein provided ("Two Term Limit").
2. Unexpired Term Exception. Notwithstanding the Two Term Limit, a person appointed to the Board as a Voting Member to fill the unexpired term of an office of a Voting Member which has become vacant ("Unexpired Term") which has less than two (2) years remaining on said Unexpired Term, may be appointed to two (2) terms in addition to their Unexpired Term. A Voting Member who currently occupies an Office may not be re-appointed to fill the Unexpired Term of another Office which has become vacant.
3. Any Voting Member may be re-appointed to serve on the Board after two (2) successive years of not serving on the Board in any Office or Membership capacity--Voting or Staff Ex-officio.

b. General Ex-officio Members.

A General Ex-officio Member may be reappointed without limitation as to number of terms.

Sec. 2.26.060 Operation of Board.

A. Frequency, Time and Place of Regular Meetings.

The Board shall hold at least one regular meeting each month commencing at 5:00 p.m. on the second Monday of each month, or at such other day and time that it shall designate by written resolution, a copy of which shall be forwarded to the City Council and entered in the minutes of the meeting thereof, in Conference Room One of the Public Services Building at the City Hall Complex located at 276 Fourth Avenue, Chula Vista, or at such other place that it shall designate by written resolution, a copy of which shall be forwarded to the City Council and entered in the minutes of the meeting thereof, or at such place as may be posted upon the door of said Conference Room at least thirty (30) minutes in advance of the meeting.

B. Officers and Board.

The Board shall select a Chairperson and a Vice Chairperson from among its Voting Members annually at its first meeting in July of each year. The Chairperson and Vice Chairperson so selected shall serve for a period of one (1) year.

C. Special Meetings.

The Board may meet specially at such other time, days and places as it shall establish by majority vote, or at such time as the Chairperson thereof may call, or at such times as a majority of the members thereof may call a meeting.

D. Conduct of Meetings.

The meetings of the Board, and notice thereof, shall be governed by the same rules and regulations by which the City Council is bound in the conduct of public meetings.

E. Quorum.

Four (4) Voting Members shall constitute a quorum for the transaction of business.

F. Resolutions.

The affirmative vote of a majority of the entire membership shall be required for the passage of any resolution of the Board.

G. Reports and Recommendations.

All reports and recommendations shall be made in writing.

H. Staff Support.

All officers and department heads shall cooperate with and render reasonable assistance to the Board. The City Manager may make available staff and clerical support to the Board to fulfill its functions and duties, provided such staff and clerical support is available.

I. Rules and Regulations.

The Board may make such rules and regulations not inconsistent with the provisions of this Chapter.

J. Gifts and Grants.

The Board may, subject to the approval of the City Council, accept gifts and grants from any source to assist it in the performance of its functions.

K. By-Laws.

The Board may pass such other and further rules and regulations regarding the internal affairs of the Board as are not inconsistent with the terms and conditions of this Chapter.

SECTION III: Section 15.08.020 of the Chula Vista Municipal Code (being the second paragraph of Section 203 of the Uniform Building Code) is amended to read as follows:

Sec. 15.08.020 Section 203 amended by revision of the second paragraph to read as follows:

All such unsafe buildings, structures or appendages are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Uniform Code for the Abatement of Dangerous Buildings, 1988 Edition as hereby adopted by the City of Chula Vista. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

SECTION IV: Section 15.08.030 of the Chula Vista Municipal Code (being Subdivision (a) of Section 204 of the Uniform Building Code) is amended to read as follows:

Sec. 15.08.030 Section 204(a) is amended to read as follows:

Section 204(a) General.

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals and Advisors consisting of seven members who are qualified by experience and training to pass upon matters pertaining to building construction. The Director of Building and Housing shall be an ex-officio member who shall not be entitled to vote and who shall act as Secretary to the Board.

The Board of Appeals and Advisors shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600 et. seq. of the Charter. The Board shall render all decisions and findings in writing to the Director of Building and Housing with a duplicate copy to the appellant. The decision of the Board is final. The Board of Appeals and Advisors shall recommend to the City Council such new legislation deemed necessary to govern construction in the City of Chula Vista.

SECTION V: Section 15.16.030 (being subdivision 203 (a) of the Uniform Mechanical Code) is hereby amended to read as follows:

Sec. 15.16.030. Section 203 amended by revision of subdivision (a) to read:

Section 203(a) General.

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a Board of Appeals and Advisors consisting of seven members who are qualified by experience and training to pass upon matters pertaining to mechanical aspects of construction. The Director of Building and Housing shall be an ex-officio member who shall not be entitled to vote and who shall act as Secretary to the Board. The Board of Appeals and Advisors shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600 et seq. of the Charter. The Board shall render all decisions and findings in writing to the Director of Building and Housing with a duplicate copy to the appellant. The decision of the Board is final. The Board of Appeals and Advisors shall recommend to the City Council such new legislation deemed necessary to govern mechanical aspects of construction in the City of Chula Vista.

SECTION VI: Section 15.20.020 of the Chula Vista Municipal Code (being Section 203 of the Uniform Housing Code) is amended to read as follows:

Section 203. Advisory and Appeals Board. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there is hereby established a Board of Appeals and Advisors consisting of seven members who are qualified by experience and training to pass upon matters pertaining to building construction, use and occupancy of residential structures. The Director of Building and Housing shall be an ex-officio member who shall not be entitled to vote and who shall act as Secretary to the Board. The Board of Appeals and Advisors shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600 et seq. of the Charter. The Board shall render all decisions and findings in writing to the Director of Building and Housing with a duplicate copy to the appellant. The Board of Appeals and Advisors shall recommend to the City Council such new legislation deemed necessary to govern construction, use and occupancy of residential structures, in the City of Chula Vista.

SECTION VII. Section 15.28.025 (being Section 20.14 of the Uniform Plumbing Code) is hereby added to the Chula Vista Municipal Code to read as follows:

Sec. 15.28.025. Section 20.14 is amended as follows:

Section 20.14 Board of Appeals and Advisors

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals and Advisors consisting of seven members who are qualified by experience and training to pass upon matters pertaining to plumbing issues in construction. The Director of Building and Housing shall be an ex-officio member who shall not be entitled to vote and who shall act as Secretary to the Board. The Board of Appeals and Advisors shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600 et seq. of the Charter. The Board shall render all decisions and findings in writing to the Director Building and Housing with a duplicate copy to the appellant. The decision of the Board is final. The Board of Appeals and Advisors shall recommend to the City Council such new legislation deemed necessary to govern plumbing issues in construction in the City of Chula Vista.

SECTION VIII: Section 15.36.020 of the Chula Vista Municipal Code is renumbered to Section 15.36.025.



SECTION IX: Section 15.36.020 is hereby added to the Chula Vista Municipal Code to read as follows:

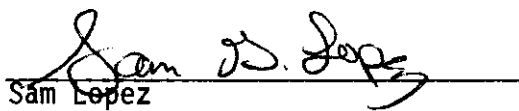
Section 2.303 is revised to read as follows:

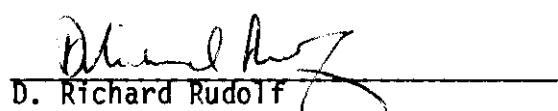
Section 2.303. In order to hear and decide appeals of orders, decisions or determinations made by the Fire Chief or Fire Marshal relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals and Advisors consisting of seven members who are qualified by experience and training to pass upon matters pertaining to fire safety. The Fire Chief shall be an ex-officio member who shall not be entitled to vote and who shall act as Secretary to the Board when it is hearing matters related to application of the Uniform Fire Code. The Board of Appeals and Advisors shall be appointed by the City Council from the qualified electors of the City in accordance with the provisions of Section 600 et seq. of the Charter. The Board shall render all decisions and findings in writing to the Fire Chief with a duplicate copy to the appellant. The decision of the Board is final. The Board of Appeals and Advisors shall recommend to the City Council such new legislation deemed necessary to govern fire safety in the City of Chula Vista.

SECTION X: 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

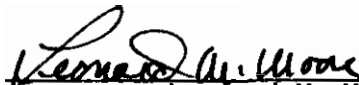
  
Sam Lopez  
Fire Chief

  
D. Richard Rudolf  
Assistant City Attorney

  
Ken Larsen  
Director Building & Housing

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 12th day of February, 1991, by the following vote:

AYES: Councilmembers: Malcolm, Moore, Nader, Rindone  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None  
ABSTAIN: Councilmembers: None

  
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Leonard M. Moore  
Mayor, Pro-Tempore

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. 2439 had its first reading on February 5, 1991, and its second reading and adoption at a regular meeting of said City Council held on the 12th day of February, 1991.

Executed this 12th day of February, 1991.

  
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Beverly A. Authelet, City Clerk