

ORDINANCE NO. 3125

ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHAPTER 5.05 TO THE CHULA VISTA MUNICIPAL CODE,  
ESTABLISHING THE CHULA VISTA AUTO PARK BUSINESS  
IMPROVEMENT DISTRICT PURSUANT TO THE PARKING  
AND BUSINESS IMPROVEMENT AREA LAW OF 1989 AND  
LEVYING AN ASSESSMENT AND CHARGE THEREIN FOR  
UPGRADING AND PROMOTING THE AREA

WHEREAS, under and pursuant to the provisions of the Parking and Business Improvement Area Law of 1989, codified as California Streets and Highways Code Section 36500, *et seq.* (the "Law"), this Council on January 20, 2009, adopted Resolution No. 2009-010, declaring an intention to form a parking and business improvement area to be known as the "Chula Vista Auto Park Business Improvement District," providing for the levy of an assessment and charge to be imposed herein, fixing the time and place for hearing and giving notice thereof; and

WHEREAS, Resolution No. 2009-010 was duly published, and copies thereof were mailed to each business owner in the area, as provided by the Law; and

WHEREAS, after a preliminary review for compliance with the California Environmental Quality Act (CEQA) staff previously determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the action only involves fiscal issues which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA; and

WHEREAS, as specified in Resolution No. 2009-010, on February 10, 2009 a hearing concerning the formation of the area was held before this Council in the Council Chambers at the City of Chula Vista City Hall, 276 Fourth Avenue, Chula Vista, California, 91910; and

WHEREAS, at the hearing, all protests, both written and oral, made or filed, were considered and duly overruled and denied and this Council determined that there was no majority protest within the meaning of Section 36525 of the Law.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Chula Vista, as follows:

Section 1. That the City Council hereby adds Chapter 5.05 to the Chula Vista Municipal Code to read as follows:

**CHAPTER 5.05  
CHULA VISTA AUTO PARK BUSINESS IMPROVEMENT DISTRICT**

Sections:

5.05.010	Title
5.05.020	Chula Vista Auto Park Business Improvement District Location
5.05.030	Purpose
5.05.040	Services and Programs
5.05.050	Assessment Calculation
5.05.060	Summary of Assessments
5.05.070	Eligible Businesses
5.05.080	Findings
5.05.090	Future Amendments
5.05.100	Annual Review
5.05.110	Advisory Board
5.05.120	Effective Date

**5.05.010 - Title.**

Pursuant to California Streets and Highways Code Section 36500, *et seq.* (the "Law"), a parking and business improvement area is hereby established, to be known as the "Chula Vista Auto Park Business Improvement District," herein called "District."

**5.05.020 - Chula Vista Auto Park Business Improvement District Location.**

The area to be included in the District includes the Chula Vista Auto Park business community area, generally described as the commercial properties along Main Street/Auto Park Drive between Interstate 805 and Nirvana Avenue, within the following address ranges:

Auto Park Drive/Main Street	505 - 4555
Auto Park Place	1860 - 1890
Brandywine Avenue	1669 - 1690
Main Court	1810 - 1820

A map depicting the District is attached and incorporated into Ordinance No. 3125 as "Exhibit A."

**5.05.030 - Purpose.**

The purpose of forming the District as a parking and business improvement area under the Business and Improvement Area Law is to provide revenue to defray the costs of services and programs which will benefit businesses in the area.

**5.05.040 - Services and Programs.**

The improvements and activities to be provided in the District will be funded by the levy of assessments. The revenue generated by the assessments to be levied may be utilized for some or all of the following services and programs:

- A. The construction and maintenance of the new vehicle dealers freeway sign will be included as a service or program funded by the proposed BID. The BID new vehicle dealers within the BID will participate in the design, operations and maintenance of the new freeway sign;
- B. Pay for marketing and advertising to promote the area as a destination point;
- C. Banner program for area to promote the District;
- D. Organizational operations and staff; and
- E. Day-to-day administration of and staff for the District

**5.05.050 – Assessment Calculation.**

All businesses operating in the above-described area will be assessed a share of the costs of the aforementioned services and programs as determined by the following formula:

- A. Base amount: In the first six months of adoption of the ordinance, there will be a mandatory minimum payment from each affected transportation dealer in the amount of \$3,000 per month per business. Car dealers/owners with separate brands pay on the basis of each business license taken out by City for first six months of assessment district.
- B. After six months of adoption of the district, the three-tiered system with minimums and maximums is applied.
- C. Tiered system is based upon the fact that all dealers, regardless of type and style of vehicle, pay a base assessment of \$3,000 per month;
  - 1. Any sales above \$ 24,000,001 in annualized sales, after the first six months of the district, will pay at a rate of .0015% of the average quarterly sales. (\$ 24 million in sales per year times .0015 = \$36,000 per year).
  - 2. Maximum amount: The maximum amount any dealer can pay is \$6,000 per month - therefore annualized sales above \$48,000,001 per year are capped at \$6,000 per month.

**5.05.060 - Summary of Assessments.**

The assessments to be imposed for those District businesses are as follows:

Sample Assessment Methodology Based Upon Existing Six Transportation Dealers - March 2008

<i>Annual Taxable Sales (1% per dealer</i>	<i>Factor</i>	<i>Annual Assessment</i>	<i>Monthly Charge (Divided by 12)</i>
\$ 10,000,000	.0015	\$ 36,000.00 Minimum	\$ 3,000.00
\$ 20,000,000	.0015	\$ 36,000.00 Minimum	\$ 3,000.00
\$ 24,000,000	.0015	\$ 36,000.00 Minimum	\$ 3,000.00
\$ 30,000,000	.0015	\$ 45,000.00	\$3,750.00
\$ 35,000,000	.0015	\$ 52,500.00	\$ 4,375.00
\$ 40,000,000	.0015	\$ 60,000.00	\$ 5,000.00
\$ 45,000,000	.0015	\$ 67,500.00	\$ 5,625.00
\$ 48,000,000	.0015	\$ 72,000.00	\$ 6,000.00
\$ 52,000,000	.0015	\$ 72,000.00	\$ 6,000.00
\$ 60,000,000	.0015	\$ 72,000.00	\$ 6,000.00

The above-described assessment is an annual charge and shall be levied, collected and enforced in the same manner, at the same time, and with the same penalties and interest as in the case of the business license. For those businesses taxed for other than an annual tax period, the City shall determine the assessment to be levied upon issuance of the City business tax certificate.

The total assessment collected from any business under the provisions of the ordinance shall not exceed \$6,000.00 per month.

**5.05.070 – Eligible Businesses.**

The following businesses, as identified by the North American Industrial Codes (N.A.I.C.), shall be subject to the Chula Vista Auto Park Business Improvement District

Those NAIC Code numbers will include:

<i>Primary Type of business</i>	<i>NAIC Code - 2007</i>
New Car Dealers	441110
Used Car Dealers	441120
New Recreational Vehicle Dealers	441210
All other New Motor Vehicle dealers	441229

Each new transportation sales business license holder, as defined by the NAIC code numbers in this section, within the confines of one common lot is considered one separate entity for assessment purposes, including those situations when a single person or corporation owns multiple new vehicle dealerships. For example, if one entity has two or more dealerships on site and has a separate business license for each dealership that entity would be assessed on each business license issued. If, on the other hand, an entity has multiple dealerships onsite and only has one business license for all of the dealerships, then that entity would be assessed on only one business license.

**5.05.080 - Findings.**

That the Council hereby finds and determines that the public convenience and necessity require the establishment of the District and that all of the businesses lying within the area will be benefited by the improvements and activities funded by the assessments proposed to be levied.

**5.05.090 – Future Amendments.**

That all of the businesses in the area established by this ordinance shall be subject to any amendments to the provisions of the Parking and Business Improvement Area Law of 1989, codified as California Streets and Highways Code Section 36500, *et seq.*

**5.05.100 - Annual Review.**

All of the assessments imposed pursuant to this ordinance shall be reviewed by the City Council annually.

**5.05.110 - Advisory Board.**

Principle office holders of the following representative businesses shall make up the District Advisory Board pursuant to California Streets and Highways Code Section 36530

BUSINESS

Fuller Ford  
Fuller Honda  
McCune Chrysler, Jeep, Dodge  
People's Chevrolet  
Chula Vista Toyota

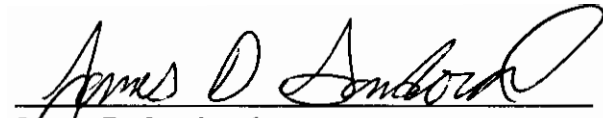
**5.05.120 – Effective Date.**


This ordinance shall take effect and be in force on March 20, 2009, and no business license for commercial activities inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

Section 2. This ordinance will take effect and be in force thirty days after final passage.

Presented by

Approved as to form by

  
James D. Sandoval  
City Manager


  
Bart C. Miesfeld  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 17th day of February 2009, by the following vote:


AYES: Councilmembers: Bensoussan Castaneda, McCann, Ramirez, and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

  
Cheryl Cox, Mayor


ATTEST:

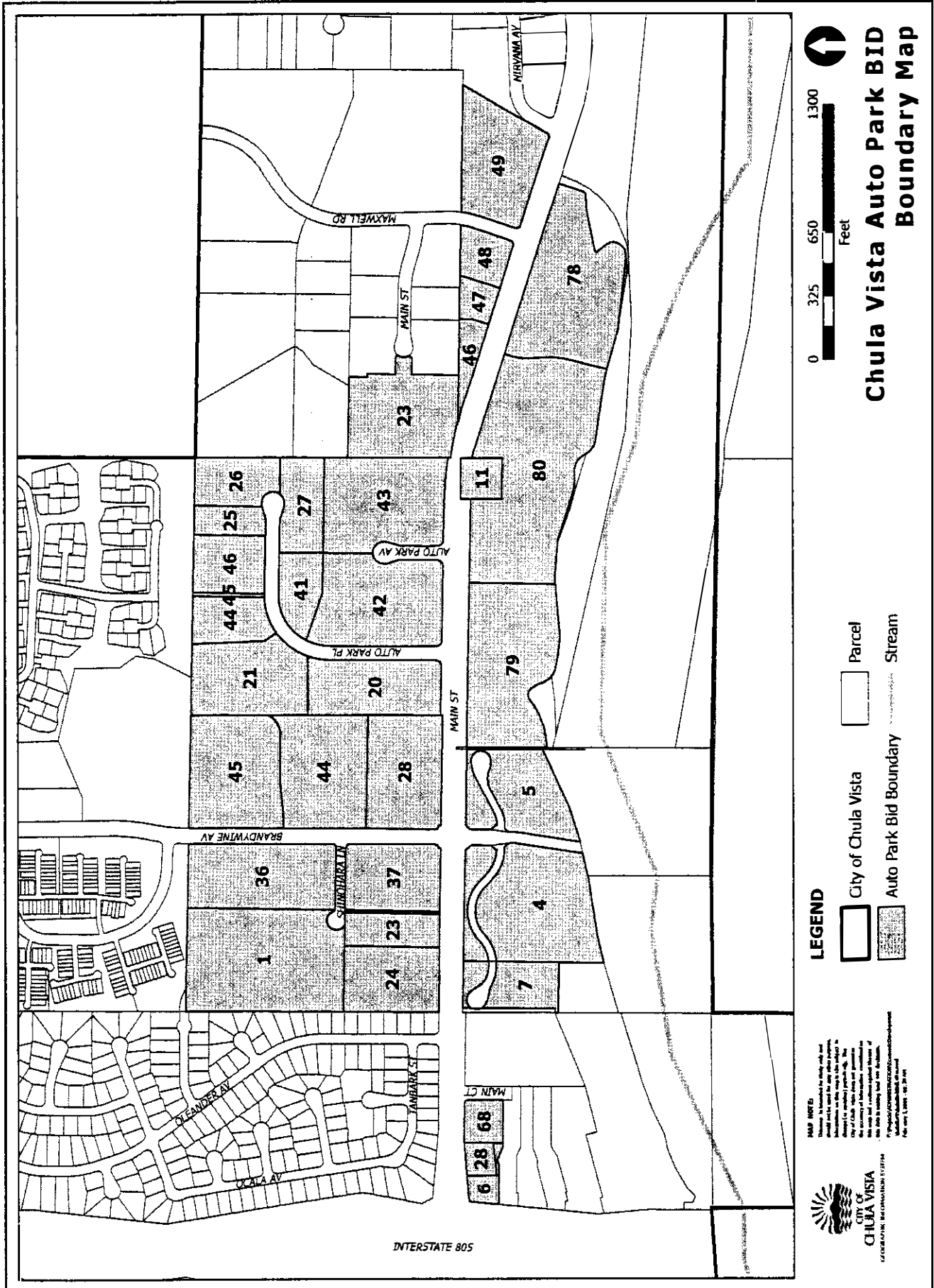
  
Donna R. Norris, CMC, City Clerk

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

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3125 had its first reading at a regular meeting held on the 10th day of February 2009 and its second reading and adoption at a regular meeting of said City Council held on the 17th day of February 2009; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 17th day of February 2009.

  
Donna R. Norris, CMC, City Clerk



# Chula Vista Auto Park Bid Boundary Map

- LEGEND**
- City of Chula Vista
  - Auto Park Bid Boundary
  - Parcel
  - Stream

**MAP NOTES**

This map is intended to provide a general overview of the Auto Park Bid Boundary. It is not intended to be used as a legal document. The City of Chula Vista does not warrant the accuracy or completeness of the information contained in this map. The City of Chula Vista is not responsible for any errors or omissions in this map. The City of Chula Vista is not responsible for any damages or losses resulting from the use of this map. The City of Chula Vista is not responsible for any claims or liabilities arising from the use of this map. The City of Chula Vista is not responsible for any claims or liabilities arising from the use of this map.



INTERSTATE 805