

ORDINANCE NO. 3268

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE CHAPTER 2.42 REGARDING THE RESPONSIBILITIES OF THE PLANNING COMMISSION; RESCINDING CHAPTERS 2.47 (DESIGN REVIEW BOARD) AND CHAPTER 2.55 (CHULA VISTA REDEVELOPMENT CORPORATION) AND REMOVING REFERENCES TO THE DESIGN REVIEW BOARD AND CHULA VISTA REDEVELOPMENT CORPORATION THEREIN

WHEREAS, the City Council created the Design Review Board in 1977 in order to relieve the Planning Commission of certain routine functions necessary to implement the City's newly adopted Design Review Procedures known as Chula Vista Municipal Code (CVMC) Chapter 19.14; and

WHEREAS, the City Council also wanted to intensify the City's efforts at that time to improve its townscape, and to promote orderly growth and amenity; and

WHEREAS, the Design Review Board's duties primarily govern the implementation of design review procedures for permits, applications and hearings; and

WHEREAS, through the years of significant development in the City, the Design Review Board and the Planning Commission met twice a month and regularly had full agendas; and

WHEREAS, with the decline in development since 2006, the level of projects being reviewed by both bodies has dropped; and

WHEREAS, the implementation of Process Improvement Amendments to the Zoning Code has resulted in the Zoning Administrator now handling more of the projects that were previously reviewed by the Planning Commission or Design Review Board; and

WHEREAS, as a result of the Process Improvement Amendments, the frequency of the meetings and the number of items on the agendas for both the Planning Commission and Design Review Board has declined; and

WHEREAS, consolidating the responsibilities of the Design Review Board and the Planning Commission as proposed will be beneficial to furthering the goals of the Process Improvement Amendments; and

WHEREAS, in 2011 the City Council voted to dissolve the Chula Vista Redevelopment Corporation (CVRC); and

WHEREAS, on December 12, 2011 the CVRC passed a Dissolution Resolution; and

WHEREAS, there are numerous references to the CVRC through the City's Municipal Code that need to be removed; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the subject action at the time and place as advertised, namely May 22, 2013 at 6 p.m. in the Council Chambers, 276 Fourth Avenue, and approved Resolution PCM-13-09 recommending that the City Council adopt the proposed Ordinance; and

WHEREAS, the City Council held a duly noticed public hearing to consider the subject action at the time and place as advertised and said hearing was thereafter closed.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Chula Vista does hereby find and determine as follows:

Section I. Environmental Determination

The activity is not a "Project" as defined under Section 15378(b)(5) of the State CEQA Guidelines because it involves only an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

Section II. Consistency with General Plan

The City Council finds that the proposed amendments of the Municipal Code are consistent with the City of Chula Vista General Plan. The proposed code amendments are based on sound planning principles and practices that will provide for design review of projects in accordance with the goals and policies of the General Plan.

BE IT FURTHER ORDAINED that the Chula Vista Municipal Code is hereby amended as follows:

Section III.

Amend Chula Vista Municipal Code Chapters 2.25, 2.42, 2.47, 2.55, 15.44, 15.56, 18.08, 19.06, 19.07, 19.14, 19.28, 19.30, 19.42, 19.44, 19.46, 19.47, 19.54, 19.56, 19.58, 19.60 and 19.62 to delete references to the Design Review Board and Chula Vista Redevelopment Corporation, modify the membership requirements for the Planning Commission and where appropriate add references to the Planning Commission as described below:

**Chapter 2.25
General Rules for Boards and Commissions**

Section 2.25.020 Definitions.

B. "Boards and Commissions" include: (1) boards and commissions established by the Chula Vista Charter: Board of Library Trustees, Civil Service Commission, Parks and Recreation Commission, and Planning Commission; and (2) boards and commissions established by the City Council: Access Appeals Board, Board of Appeals and Advisors, Board of Ethics, Charter Review Commission, Child Care Commission, Commission on Aging, Cultural Arts Commission, Economic Development Commission, Growth Management Oversight Commission, Housing Advisory Commission, Human Relations Commission, International Friendship Commission, Mobilehome Rent Review Commission, Resource Conservation Commission, Safety Commission, Veterans Advisory Commission, and other boards or commissions subsequently created by City Charter or ordinance.

**Chapter 2.42
Planning Commission**

Section 2.42.030 Membership.

In accordance with Charter Section 605, the Planning Commission shall consist of seven members to be appointed by the City Council from the registered voters of the City. The number of members to comprise the commission may be changed by ordinance of the City Council; however, the number may be set at no fewer than five and no more than nine.

A minimum of three (3) members of the Planning Commission should be persons sensitive to design consideration and interested in townscape matters. Persons qualified for these seats should include architects, landscape architects, land planners, urban planners, civil engineers and other design professionals with suitable experience.

**Chapter 2.47
Design Review Board**

Repealed

**Chapter 2.55
Chula Vista Redevelopment Corporation**

Repealed

Chapter 15.44

Moving, Relocating and Demolishing Buildings

Section 15.44.030 Application for permit.

A. Whenever an existing building, house or structure is moved from its present location outside the City to a new location within the City, or from one location within the City to another location within the City, the house mover or other person, firm or corporation moving a house, building, or structure shall, prior to moving, file an application for a moving permit with the Building and Housing Department. Said application shall contain the following information:

5. Multifamily projects shall be processed through the Planning Commission, as provided under CVMC 19.28.180 and 19.28.190. The fee shall be as specified in the master fee schedule;

Chapter 15.56

Conversion of Dwelling Units to Independent Ownership

Section 15.56.020 (G).

Condominium projects shall comply with the guidelines of the design manual of the city, and shall be reviewed by the Planning Commission, except where condominium projects are located with the Chula Vista Town Centre No. 1 redevelopment project area, in which case the guidelines of the Town Centre design manual shall govern, and the reviewing body shall be the Planning Commission. Notwithstanding the provisions of this subsection, the property owner shall not be required to make major structural or spatial changes to existing buildings.

Chapter 18.08

Definitions

Section 18.08.070 Commission

“Commission” means the Planning Commission of Chula Vista

Chapter 19.06

General Plan

Section 19.06.030 Implementation of

Projects shall be deemed to be substantially processed where the property owners have procured approved tentative subdivision or parcel maps, building permits, conditional use permits, or Planning Commission approvals, in furtherance of the proposed projects. The zoning administrator, furthermore, may deem that projects have been substantially processed where the involved property owners have submitted tentative subdivision or parcel maps or applications for design review, but are awaiting consideration by the appropriate city agency or official, as well as projects which have been submitted to the planning department for design review

consideration not more than six months prior to the adoption of the general plan. The property owner shall provide evidence to the zoning administrator not more than 90 days after the general plan adoption that the submittal of project plans has occurred within the aforementioned specified period to qualify for this provision.

Chapter 19.07 Specific Plans

Section 19.07.030 Zoning implementation thereof.

Projects shall be deemed to be substantially processed where the property owners have procured approved tentative subdivision or parcel maps, building permits, conditional use permits, or Planning Commission approvals, in furtherance of the proposed projects. The zoning administrator, furthermore, may deem that projects have been substantially processed where the involved property owners have submitted tentative subdivision or parcel maps or applications for design review, but are awaiting consideration by the appropriate city agency or official.

Chapter 19.14 Administrative Procedures – Permits – Applications – Hearings – Appeals

Section 9.14.110 Conditional use permit – Appeals of the Planning Commission decision – Form – Contents – Effect of filing.

Section 19.14.120 Conditional use permit – Appeals of Planning Commission decision – City Clerk duties.

Section 19.14.590 Fees for appeals and requested actions before the Planning Commission and Zoning Administrator.

Section 19.14.050 Public hearing – Mandatory when – Consolidation of public hearings for multiple permit applications.

A. The Zoning Administrator may, at her/his option, refer any of the matters on which she/he is authorized to rule and/or issue a permit to the Planning Commission for review. In addition, a project applicant may request that any such matter be referred directly to the Planning Commission for action. In such cases, a public hearing as provided herein shall be mandatory.

C. When an applicant applies for more than one permit or other approval for a single development, the applications shall be consolidated for processing and shall be reviewed by a single decision maker or decision-making body. The consolidated application shall be heard by the decision maker or decision-making body associated with the highest level action among the applications to be considered. The findings required for approval of each permit shall be considered individually, consistent with CVMC 19.14.080, 19.14.190 and/or 19.14.582(E) as applicable. For projects subject to design review and that are consolidated to a higher decision-making level, one member of the Planning Commission with design expertise, may advise the staff on the design aspects of the project prior to the public hearing. The recommendations will be included in the staff report to the highest level decision-making body.

Section 19.14.110 Conditional use permit – Appeals of the Planning Commission decision – Form – Contents – Effect of filing.

The applicant or other interested person may appeal from the decision of the Planning Commission granting or denying any conditional use permit to the City Council within 10 business days from the date on which the decision was made. Said appeal shall be in writing and filed with the City Clerk upon forms provided by the Development Services Department and shall specify therein that the decision of the Planning Commission was in error and identify the facts and circumstances on which the claim of error is based. If an appeal is filed within the time limit specified, it automatically stays proceedings in the matter until a determination is made by the City Council.

Where an application is neither approved nor denied by the Planning Commission due to a failure to achieve a majority vote, the applicant shall have the right to a rehearing at the next Planning Commission with an opportunity to appeal the decision of the rehearing to the City Council, or may appeal directly to the City Council without payment of additional fees. The choice of alternatives shall be at the discretion of the applicant. All other proceedings pertaining to appeals shall continue to apply.

Section 19.14.120 Conditional use permit – Appeals of Planning Commission decision – City Clerk duties.

Upon the filing of the appeal, the City Clerk shall set the matter for public hearing, giving the same notice as required in CVMC 19.12.060 through 19.12.080. The matter shall be placed on the Council agenda and heard within 30 days of receipt of a valid application for appeal. The City Clerk shall send the Development Services Department a duplicate copy of the appeal and request the Planning Commission to transmit to the City Council a copy of its decision and findings, minutes of the hearing and all other evidence, maps, papers and exhibits upon which the Planning Commission made its decision.

Section 19.14.130 Conditional use permit – Appeals – City Council action – Resolution contents and transmittal.

Upon the hearing of such appeal, the City Council may, by resolution, affirm, reverse or modify in whole or in part any determination of the Zoning Administrator or Planning Commission subject to the same limitations and requirements of findings as are placed upon the Zoning Administrator or Planning Commission by this chapter. The resolution must contain a finding of facts showing wherein the conditional use meets or fails to meet the requirements of CVMC 19.14.080. The decision by the City Council on the appeal is final. Not later than 10 business days following the adoption of said resolution, the City Clerk shall transmit a copy of the resolution and finding to the Director of Development Services, and shall mail a copy to the applicant.

Section 19.14.579 Precise plan approval – Multiple-family dwellings and commercial or industrial projects.

Notwithstanding the provisions of other sections of this chapter, the review of precise plans for multiple-family dwelling, commercial, or industrial projects shall be procedurally governed by the rules adopted by Planning Commission.

Section 19.14.580 Precise plan approval – Multiple-family dwellings and commercial or industrial projects – Zoning Administrator.

Following the approval or conditional approval of a precise plan for a multiple-family dwelling, commercial, or industrial project by the Planning Commission or, upon appeal, by the City Council, the building inspector shall ensure that the development is undertaken and completed in conformance with the approved plan.

Section 19.14.581

Repealed

Section 19.14.582 Design review approval.

A. Plans for the establishment, location, expansion or alteration of structures in all multifamily residential zones and all commercial and industrial zones shall require design review by the Planning Commission.

B. The Planning Commission shall approve, conditionally approve or deny such plans. The Planning Commission shall base its findings and actions on the design review provisions of the affected design manuals of the City.

C. The Zoning Administrator has the discretion, with the concurrence of the applicant, to act in the place of the Planning Commission in the case of minor projects, including new construction or additions to commercial, industrial, or institutional projects with a total floor area of 20,000 square feet or less, and residential projects of 10 units or less. The Zoning Administrator shall base its findings and actions upon the provisions of the affected design manuals of the City.

Section 19.14.583 Design review application and fee.

B. The fee for a hearing before the Planning Commission is the required fee(s). The fee for Zoning Administrator design review shall be the required fee(s).

Section 19.14.587

Repealed

Section 19.14.588 Design review – Appeal procedure.

A. The applicant or other interested persons may file an appeal from the decision of the Planning Commission or Zoning Administrator for minor projects, to the City Council within 10 business days after the decision is made. The appeal shall be in writing and filed with the Development Services Department on forms prescribed for the appeal, and shall specify therein the argument against the decision of the Planning Commission. If an appeal is filed within the time limit specified, it automatically stays proceedings in the matter until a determination is made by the City Council.

B. Upon the hearing of such appeal, the City Council may, by resolution, affirm, reverse or modify, in whole or in part, any determination of the Planning Commission or Zoning Administrator for minor projects. The resolution must contain a finding of facts showing wherein the project meets or fails to meet the requirements of this chapter and the provisions of the design review manual.

C. The decision of the City Council is final.

Section 19.14.590 Fees for appeals and requested actions before the Planning Commission and Zoning Administrator.

For all appeals from actions of the Planning Commission or Zoning Administrator or any appeal filed pursuant to Chapter 19.12 CVMC or this chapter, the fee shall be the required fee(s). In addition, any request for action by the City Council not specifically covered within the fee structure established by this chapter shall be subject to the required fee(s) therefor. (Ord. 3153 § 2 (Exh. A), 2010; Ord. 2506 § 1, 1992; Ord. 2011 § 1, 1982; Ord. 1813 § 2, 1978).

Section 19.14.591 Continuance of project.

Repealed

19.14.592 Implementation of Design Review Board functions in designated areas by Chula Vista Redevelopment Corporation.

Repealed

Section 19.14.600 Design review approval – Time limit for implementation – Extensions.

C. Request for Extension. Prior to the expiration of a permit, the appropriate decision maker, whether the Zoning Administrator or the Planning Commission may grant an extension of time contained in a currently valid permit without a public hearing upon request of the property owner; provided, that:

1. There has been no material change of circumstances since the granting of the permit;
2. That such changes, if any, which, when considered in conjunction with the construction or use of property theretofore permitted, would not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Chapter 19.28

R-3 – APARTMENT RESIDENTIAL ZONE

19.28.190 Jurisdiction of the Planning Commission.

Section 19.28.060 Height regulations.

A. Height regulations in the R-3 zone and R-3-M, R-3-T and R-3-G classifications are as follows:

2. Principal buildings up to three and one-half stories or 45 feet in height may be approved by the Planning Commission; provided, it is found that the height, bulk, mass and proportion of all structures are compatible with the site, as well as in scale with structures on adjoining and surrounding properties in the area.

Section 19.28.070 Area, lot width and yard requirements.

2. Side and rear yards: Side and rear yard requirements shall be increased an additional two feet for 25-foot-high structures (this dimension shall include the roof), and shall be increased at the rate of two feet for each story above 25 feet. Exception: When adjacent to an R-1, R-E or R-2 zone, the side yard setback shall be increased to 15 feet for any structure over one story or 15 feet in height, with an additional two-foot setback required for each story above 25 feet in height. In those cases where the rear yard abuts an R-3, commercial or industrial zone, the Planning Commission may grant up to a 10-foot reduction in the rear yard setback; provided, it is found that the affected open space has been transferred to a more beneficial location on the lot.

Section 19.28.190 Jurisdiction of the Planning Commission.

The design manual of the City shall be effectuated and administered by the Planning Commission.

Chapter 19.30

C-O – Administrative and Professional Office Zone

Section 19.30.040 Conditional uses.

The following uses shall be permitted in the C-O zone; provided, a conditional use permit is issued in accordance with the provisions of CVMC 19.14.030(A) or 19.14.040, as may be applicable, and CVMC 19.14.050 through 19.14.090:

I. Recycling collection centers, subject to the provisions of CVMC 19.58.345.

The following uses shall be permitted in the C-O zone; provided, a conditional use permit is issued by the Planning Commission or for unclassified uses as defined in CVMC 19.54.020:

Chapter 19.42
I-R – Research Industrial Zone

Section 19.42.040 Conditional uses.

The following uses shall be permitted in the I-R zone; provided, a conditional use permit is issued in accordance with the provisions of CVMC 19.14.030(A) or 19.14.040, as may be applicable, and CVMC 19.14.050 through 19.14.090:

F. Hazardous waste facilities, subject to the provisions of CVMC 19.58.178. Conditional use permit applications for the establishment of hazardous waste facilities shall be considered by the City Council subsequent to its receipt of recommendations thereon from the Planning Commission in accordance with CVMC 19.14.070(B).

Chapter 19.44
I-L – Limited Industrial Zone

Section 19.44.040 Conditional uses.

The following uses shall be permitted in the I-L zone; provided, a conditional use permit is issued in accordance with the provisions of CVMC 19.14.030(A) or 19.14.040, as may be applicable, and CVMC 19.14.050 through 19.14.090:

P. Hazardous waste facilities, subject to the provisions of CVMC 19.58.178. Conditional use permit applications for the establishment of hazardous waste facilities shall be considered by the City Council subsequent to its receipt of recommendations thereon from the Planning Commission in accordance with CVMC 19.14.070(B).

Chapter 19.46
I – General Industrial Zone

Section 19.46.040 Conditional uses.

The following uses shall be permitted in the I zone; provided, a conditional use permit is issued by the Planning Commission or for unclassified uses as defined in CVMC 19.54.020:

P. Hazardous waste facilities, subject to the provisions of CVMC 19.58.178. Conditional use permit applications for the establishment of hazardous waste facilities shall be considered by the City Council subsequent to its receipt of recommendations thereon from the Planning Commission in accordance with CVMC 19.14.070(B).

Chapter 19.47
P-Q – Public/Quasi-Public

19.47.040 Conditional uses.

The following uses shall be permitted in the P-Q zone; provided, a conditional use permit is issued by the Planning Commission or for unclassified uses as defined in CVMC 19.54.020:

K. Hazardous waste facilities, subject to the provisions of CVMC 19.58.178. Conditional use permit applications for the establishment of hazardous waste facilities shall be considered by the City Council subsequent to its receipt of recommendations thereon from the Planning Commission in accordance with CVMC 19.14.070(B).

Chapter 19.54
Unclassified Uses

Section 19.54.020 Designated – Limitations and standards.

Conditional use permit applications for the uses listed in this section shall be considered and approved by the following body or official. The Zoning Administrator shall approve all ambulance services, trailers (commercial coaches), and certified farmers' markets. The City Council, subsequent to its receipt of recommendations thereon from the planning commission shall approve establishments or enterprises involving large assemblages of people or automobiles (subsection (J) of this section), and public or quasi-public uses (subsection (M) of this section). The Planning Commission shall approve all other conditional use permits for unclassified uses not mentioned in this paragraph.

Chapter 19.56
Modifying Districts

Section 19.56.048 P precise plan modifying district – Plan review of multiple-family dwellings and commercial or industrial projects.

Notwithstanding the provisions of CVMC 19.56.047, plans for multiple-family dwellings and commercial or industrial projects in areas governed by the P precise plan modifying district shall be reviewed by the Planning Commission and shall be considered by the City Council only upon appeal, pursuant to CVMC 19.14.583.

Chapter 19.58
Uses

Section 19.58.345 Recycling collection centers.

C. Large recycling collection centers with a combined area of over 300 square feet, but not exceeding the floor area equivalent of a 30-person occupancy load, may be permitted as an accessory or primary use subject to the approval of a conditional use permit granted by the Zoning Administrator pursuant to CVMC 19.14.040, and with approval of an application for site plan and architectural review by the Planning Commission.

Section 19.58.390 Senior housing development.

Pursuant to CVMC 19.54.020, housing developments for seniors, as defined in CVMC 19.04.201, may be allowed in any zone except the R-1, R-2, C-V, C-T and industrial zones. Because the residents of such development have dwelling characteristics which differ from those of families and younger persons, it is not appropriate to apply all of the normal zoning standards thereto. Accordingly, pursuant to the processing of a conditional use permit for such developments, as required by CVMC 19.54.020(P), the Planning Commission may make exceptions to the density, off-street parking, minimum unit size, open space, and such other requirements as may be appropriate. The Planning Commission may also adjust required setbacks, building height, and yard areas as appropriate to provide an adequate living environment both within the development and on nearby properties. Any exceptions and adjustments shall be subject to the condition that the development will be available for occupancy by seniors only.

Section 19.58.400 Recreational vehicle storage yards.

The approval of an RV storage yard judged by the Planning Commission to represent an interim use of land based upon zoning, development patterns, and/or pending plans in the area shall be subject to a review and report filed each year by the owner with the City Zoning Administrator. Failure to file the report or abide by the conditions of approval shall cause the matter to be set for a rehearing before the Planning Commission to consider revocation of the permit or other appropriate corrective action. Permits for interim RV storage yards shall be granted for a maximum period of five years with extensions subject to rehearing before the Planning Commission.

**Chapter 19.60
Signs**

Section 19.60.520 Central business (C-B) zone.

The following signs are allowed in C-B zones:

E. The Planning Commission may reduce sign areas and heights below those authorized above based on the sign guidelines and criteria contained in the design manual, without consideration of the graphic design of the copy or message displayed on the sign.

**Chapter 19.62
Off-Street Parking and Loading**

Section 19.62.020 Size and access requirements.

Size and access of off-street parking and loading facilities shall be as follows:

E. Tandem parking shall not qualify as required parking unless specifically approved by the Planning Commission.

Section IV. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section V. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.


Section VI. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VII. Publication

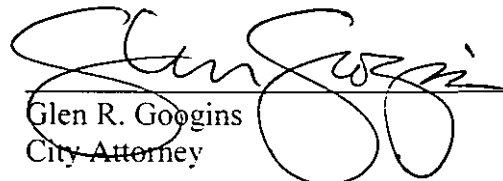
The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by



Gary Halbert, P.E., AICP
Assistant City Manager

Approved as to form by




Glen R. Googins
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 9th day of July 2013, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas 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. 3268 had its first reading at a regular meeting held on the 11th day of June 2013 and its second reading and adoption at a regular meeting of said City Council held on the 9th day of July 2013; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

7/22/13
Dated


Donna R. Norris, CMC, City Clerk