

ORDINANCE NO. 3404

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING  
CHAPTER 19.14 OF THE CHULA VISTA MUNICIPAL CODE  
(CVMC) BY ADDING A NEW SECTION CREATING AN  
INITIATION PROCESS FOR AMENDMENTS TO THE  
GENERAL PLAN, SECTIONAL PLANNING AREA PLANS,  
GENERAL DEVELOPMENT PLANS, SPECIFIC PLANS,  
PRECISE PLANS (LAND USE PLANS) AND FOR REZONING

WHEREAS, Chula Vista's Municipal Code provides for City Council adoption of the General Plan, Sectional Planning Area Plans, General Development Plans, Specific Plans, Precise Plans (Land Use Plans) and rezoning; and

WHEREAS, in cases where development project applicants seek to amend land use plans or propose rezoning actions, there is no simplified process for them to determine whether City Council feels there is merit enough in the applicant's proposal to authorize staff to accept their application, conduct appropriate environmental impact analysis, and to process it through Planning Commission and on to final decision by the City Council; and

WHEREAS, creating a new process allowing for the initiation of review by the City Council of certain proposed land use plan amendments and rezoning actions will also allow for earlier public notification and input on significant potential land use revisions; and

WHEREAS, a City Council decision to allow certain proposed land use plan amendments and rezoning actions to move forward is not an approval of said proposed potential land use plan amendments and rezoning actions nor is it any predetermination by the City Council of said proposed potential land use plan amendments and rezoning actions as City Council will conduct a complete review of said proposed land use plan amendments and rezoning actions, including any required environmental analysis, along with the merits of an accompanying proposed project; and

WHEREAS, because this activity will not result in any approval or denial of said proposed potential land use plan amendments and rezoning actions and because City Council will conduct a complete review of said proposed potential land use plan amendments and rezoning actions, including any required environmental analysis, along with the merits of an accompanying proposed project, the Director of Development Services has determined that the activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the CEQA State Guidelines, the activity is not subject to CEQA. In addition, notwithstanding the foregoing, the Director of Development Services has also determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the CEQA State Guidelines. Thus, no environmental review is required.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

**Section I.**

Chapter 19.14 of the Chula Vista Municipal Code is hereby amended by adding Sections 19.14.800 thru 19.14.860 (attached hereto as Exhibit 1) to add an initiation process to allow development project applicants to seek City Council direction to authorize staff to work on proposed land use plan amendments or rezoning actions.

**Section II. 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 III. 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 IV. Effective Date**

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

**Section V. 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

Approved as to form by

Kelly G. Broughton, FASLA  
Director of Development Services


Glen R. Googins  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 23rd day of May 2017, by the following vote:


AYES: Councilmembers: Diaz, McCann, and Padilla

NAYS: Councilmembers: None

ABSENT: Councilmembers: Aguilar and Salas

  
John McCann, Deputy 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. 3404 had its first reading at a regular meeting held on the 16th day of May 2017 and its second reading and adoption at a regular meeting of said City Council held on the 23rd day of May 2017; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

June 7, 2017  
Dated

  
Donna R. Norris, CMC, City Clerk

## **Exhibit 1**

### **Planning Commission Alternative Ordinance**

#### **19.14.800 Initiation of Amendments to the General Plan, Sectional Planning Area Plans, General Development Plans, Specific Plans, and Precise Plans and Rezoning**

##### **19.14.810 Purpose of Initiation Procedures**

The purpose of these procedures is to establish a process for the initiation of General Plan, Sectional Planning Area Plans, General Development Plans, Specific Plans, and Precise Plans (Land Use Plan Amendments) or rezoning of any property within the City of Chula Vista. The initiation process is intended to seek Planning Commission or City Council direction on whether to commit City resources to potentially make changes to a Land Use Plan or to rezone property within the City of Chula Vista. The initiation process is not intended for every proposed Land Use Plan Amendment or rezoning of property and City staff are hereby exempted from it. It is only intended for Land Use Plan Amendments proposed by a private person that from the outset may or may not have the support of staff, and as such are being referred to the Planning Commission or City Council for review.

##### **19.14.815 Initiation Approval Does Not Constitute Project Approval**

The City Council hereby finds that these procedures do not commit the City to any definite course of action, including, but not limited to, approval or denial of any proposed Land Use Plan Amendments or rezoning prior to California Environmental Quality Act (CEQA) review being conducted. Rather, these procedures set forth the City's intent to give staff direction to further explore the merits of any proposed Land Use Plan Amendment or rezone commensurate with the submittal of a future project. Notwithstanding the foregoing, nothing in these procedures will be construed as circumscribing or limiting the City's exercise of discretion with respect to any future Land Use Plan Amendment or rezone in connection with a project. Any and all future discretionary actions may be exercised in the sole and absolute discretion of the City. The party requesting a potential Land Use Plan Amendment or rezone assumes the risk, and in accordance with the application for initiation, shall waive, release, defend, protect and indemnify the City from and against any claims alleging City approval of the initiation approval request constituted an approval of the proposed Land Use Plan Amendment or rezoning.

##### **19.14.820 When an Initiation Application Is Required**

Subject to applicable laws, the City is under no obligation to process a private request for a Land Use Plan Amendment or rezoning. A private proposal to amend a Land Use Plan or to rezone any property in the City may be requested for City approval by filing an application for initiation.

##### **19.14.830 Initiation Application Process**

An initiation application for a Land Use Plan Amendment or rezone shall be filed with the City Manager, or designee, in accordance with the following requirements:

- (a) Authority to File an Application. The following persons are deemed to have the authority to file an application:
  - (1) The record owner of the real property that is the subject of the Land Use Plan Amendment or rezone;
  - (2) The property owner's authorized agent; or
  - (3) Subject to the City Manager's approval, any other person who can demonstrate a legal right, interest, or entitlement to the use of the real property subject to the application.
- (b) Submittal Requirements. The application shall be made on a form provided by the City Manager and shall be accompanied by the materials, information, fees, and deposits that are required on the date the application is filed. The application shall be deemed complete when the department processing the application has determined that the application includes all of the information, materials, fees, and deposits required by this section. The City may, in the course of processing the application, request that the applicant clarify, simplify, or provide in alternate format or medium, the information required for the application.
- (c) Materials and Information. The City Manager shall maintain a list specifying the materials and information to be submitted with each initiation application for a Land Use Plan Amendment or a rezone. The list may be revised on a quarterly basis or as needed to comply with revisions to local, state, or federal law, regulation, or policy. The subject list shall be available at the Development Services Division of the Planning Department and shall apply to all applications submitted.

**19.14.840      Criteria for Approval of an Initiation of Amendments to Land Use Plans or rezone**

- (a) An application of initiation of an amendment to a Land Use Plan or zone may be approved by the Planning Commission or City Council if all of the following criteria are met:
  - (1) The proposed Land Use Plan Amendment or rezone is consistent with the goals and policies of the General Plan;
  - (2) The proposed Land Use Plan Amendment or rezone provides equal or greater public benefit to the community as compared to the existing land use designation, density/intensity range, or plan policy; and
  - (3) Public facilities are available to serve the proposed change in land use designation or density/intensity, or their provision will be addressed as a component of the Land Use Plan Amendment or rezoning process.

**19.14.850 Process for Approval of an Initiation of Land Use Plan Amendment or Rezone**

Land Use Plan Amendment or rezoning initiation requests shall be decided by Planning Commission or City Council at a public hearing noticed in accordance with CVMC 19.12.070. The decision shall be limited to whether staff should be directed to accept a formal application for a Land Use Plan Amendment or rezone and to bring the action and appropriate environmental review through the Planning Commission for recommendation and to City Council for final consideration at a future date. Initiation actions shall not commit staff nor future decision makers to a specific recommendation on the proposal or to any specific future action. The Planning Commission and City Council reserve the right to exercise their police power and land use authority with respect to any future Land Use Plan Amendment or rezone in their sole and absolute discretion as required by and in accordance with applicable laws. Initiation requests shall be heard by City Council within 40 business days from the date the initiation application is deemed complete.

A staff review of the application of this ordinance to specific initiation requests should be conducted within a year of the effective date of the ordinance. The results of this review shall be provided to Planning Commission and City Council upon request.