



CITY COUNCIL STAFF REPORT



June 11, 2024

ITEM TITLE

Comprehensive Code Update – Amendments to the Chula Vista Municipal Code

Report Number: 24-0178

Location: No specific geographic location

Department: Development Services

G.C. § 84308: No

Environmental Notice: The Project qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines.

Recommended Action

Conduct the public hearing and place an ordinance on first reading amending Chula Vista Municipal Code Title 8 (Health and Sanitation), Title 12 (Streets and Sidewalks), Title 13 (Sewers), Title 15 (Buildings and Construction), Title 18 (Subdivisions), and Title 19 (Planning and Zoning). **(First Reading)**

SUMMARY

This item consists of proposed amendments to the Chula Vista Municipal Code covering numerous topics that will help streamline and clarify permit processes/regulations and comply with State Law.

ENVIRONMENTAL REVIEW

The Director of Development Services reviewed the proposed legislative action for compliance with the California Environmental Quality Act ("CEQA") and determined that the action qualifies for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3). The action of updating and modifying the Chula Vista Municipal Code with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the Chula Vista Municipal Code, there is a certainty that there is no possibility that the action may have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

On May 8, 2024, the Planning Commission considered the proposed amendments to the Chula Vista Municipal Code. At the hearing, staff withdrew an item from consideration. Attachment 14 of the Planning Commission Report was removed from consideration to allow staff additional time to work on the proposed changes within the Urban Core Specific Plan. Staff will bring the item back at a future date. All remaining code amendments contained in the Planning Commission Report were considered at the hearing.

The Planning Commission voted 6-0-0 to adopt Resolution No. 2024-09 (Attachment 1), recommending the City Council adopt an ordinance approving the Chula Vista Municipal Code (“CVMC” or the “Code”) amendments with the following recommended changes, with staff’s response provided below each recommended change:

Senate Bill (SB) 9 Urban Lot Splits

- Removal of the owner-occupancy requirement reflected in CVMC section 19.58.450(E)(11) (Attachment 4).

Staff response: Staff does not support this recommendation until the resolution of the legal case emanating from an April 22, 2024, Los Angeles Superior Court decision (*City of Redondo Beach, et al., v. Rob Bonta, in his capacity as California Attorney General*, Case No. 22STCP1143).

Accessory Dwelling Units (ADUs)

- Removal of the “50 percent of the primary house” and “whichever is greater” language in CVMC section 19.58.022(C)(3)(a), clarifying the City’s intent in setting maximum sizes of studio/one-bedroom ADUs at 850 square feet, and 1,000 square feet for ADUs with more than one bedroom (Attachment 5).

Staff response: Staff supports this recommendation. The updated language is reflected in Attachment 5 of the report.

- Removal of the owner-occupancy requirement reflected in CVMC section 19.58.022(C)(12) (Attachment 5).

Staff response: Staff supports this recommendation. The updated language is reflected in Attachment 5 of the report. The change to CVMC section 19.58.022(C)(12) brings the Chula Vista Municipal Code into compliance with Assembly Bill 976 which prohibits local agencies from requiring an owner occupy the primary dwelling or ADU.

Design Review Permit Thresholds

- Updating the decision-maker threshold of a Zoning Administrator decision and a Planning Commission decision from projects containing 10 residential units, or more, and non-residential use projects of 20,000 square feet, or more, to projects containing 80 residential units, or more, and non-residential use projects of 50,000 square feet, or more (Attachment 15).

Staff Response: Staff does not support this recommendation. Staff's original recommendation of thresholds consisting of projects containing 200 residential units, or more, and non-residential use projects of 100,000 square feet, or more, requiring a Planning Commission decision is reflected in Attachment 15 of the report.

DISCUSSION

Background

On March 7, 2023, the City Council adopted an ordinance approving the first comprehensive update to the CVMC within the last few years, amending primarily Title 19 and other various titles within the Code. The proposed revisions in this comprehensive code update aim to further streamline and clarify permit processes/regulations, fix outdated references, and comply with State Law.

Proposed Amendments

A list of the proposed code amendments can be found in Table 1. Each individual item is grouped into four (4) broader categories: Jurisdictional/Procedural, State Law Compliance, Land Use and Development, and Process Improvements.

“Jurisdictional/Procedural” includes revisions to jurisdictional or procedural changes. This includes the following items: 1) Clarifying the permitting authority within the public right-of-way within Title 12; and 2) Clarification on items being heard at any City Council Meetings to be consistent with the City Charter.

“State Law Compliance” includes revisions for State Law compliance. This includes the following items: 1) Dwelling unit allowances under Senate Bill 9 Urban Lot Splits; and 2) ADU size requirements, pursuant to Government Code section 66321.

“Land Use and Development” covers revisions within Title 19 to use or development standards. This includes the following items: 1) Electric Vehicle Sales and Services; 2) R-3 Zoning Designation Density Requirements; 3) Temporary and Permanent Storage Containers; 4) Recreational Vehicle Storage and Habitation; and 5) Home Occupations (home-based businesses).

“Process Improvements” includes updates to existing processes for projects and/or permits. This includes the following items: 1) Substantial Conformance Review; 2) Use Determinations; 3) Planned Sign Program Approval Authority; 4) Coastal Development Permit and Design Review Permit Approval Findings; 5) Design Review Permit Requirements; 6) Rebuilding Non-Conforming Structures; 7) Initiating Amendments to Policy Documents; and 8) Development Project conformance with the City's Trash Hauling Requirements.

Table 1 – Proposed Municipal Code Amendments

<u>Jurisdictional/Procedural</u>			
<u>Topic</u>	<u>Issue</u>	<u>Solution</u>	<u>CVMC Location</u>
Public Right-of-Way Permitting Authority	Permits pertaining to the public right-of-way are issued by the Development Services Department. This may require consultation with the Engineering Department, overseen by the City Engineer, in charge of capital/street improvement projects.	Include a designee in addition to the City Engineer as having the authority for issuance of public right-of-way permits.	<ul style="list-style-type: none">• Title 12 (Streets and Sidewalks)
Scheduling Items for City Council Meetings	The City's Charter [307 (C)] was recently adopted allowing any Council action that may be taken at a "regular" Council meeting may also be taken at a "special" Council meeting.	Revise the applicable Code Titles, to be consistent with the City Charter.	<ul style="list-style-type: none">• Title 8 (Health and Sanitation)• Title 12 (Streets and Sidewalks)• Title 13 (Sewers)• Title 15 (Buildings and Construction)• Title 18 (Subdivisions)• Title 19 (Planning and Zoning)
<u>State Law Compliance</u>			
<u>Topic</u>	<u>Issue</u>	<u>Solution</u>	<u>CVMC Location</u>
Senate Bill 9 Urban Lot Splits	State Senate Bill 9 allows for an Urban Lot Split Parcel Map ("Parcel Map"), resulting in the subdivision of two parcels from a single-lot zoned either R-1 or R-E. However: 1) the location of the allowed unit count as part of the Urban Lot Split Parcel Map is under a	Change the location in the Code as well as clarify the language.	<ul style="list-style-type: none">• Title 19 (Planning and Zoning)

	different Code Sub-Section than it should be; 2) the language itself explaining the number of units allowed after the Parcel Map is approved, needs to be clarified that a maximum of four (4) units are allowed, spread over the resulting two (2) new parcels.		
ADU Size Requirements	Pursuant to Government Code section 66321, no jurisdiction shall allow an attached ADU to be smaller than 850 square feet for a studio or one-bedroom unit, and 1,000 square feet for a unit having more than one bedroom. The wording of the Municipal Code creates confusion on ADU allowed sizes.	Revise the applicable Code section to remove the “50 percent” and “whichever is greater language,” to be consistent with Government Code section 66321.	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)
<u>Land Use & Development</u>			
<u>Topic</u>	<u>Issue</u>	<u>Solution</u>	<u>CVMC Location</u>
Electric Vehicle Sales and Services	The use does not have a definition, and, is not listed as a permitted, conditionally permitted, or unpermitted use anywhere within the Code.	Add Electric Vehicle Sales and Services as a permitted use within the C-T (Commercial-Thoroughfare) and I-L (Limited Industrial) zones. These zones currently allow for businesses selling gasoline-power vehicles.	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)
R-3 Zoning Designation Density Requirements	Calculating density on a property is dictated by the associated General Plan land use designation and the property’s size. However, the R-3 (Apartment-Residential) zoning designation is the only residential zoning designation in the Code that has a different way to calculate density.	Remove the density calculation and gross/net density definitions from the R-3 zone to be consistent with all other residential zones in the Code.	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)

Temporary and Permanent Storage Containers	There are no standards in the Code that speak to the usage of temporary and permanent storage containers.	Add a new section containing standards for temporary and permanent storage containers.	• Title 19 (Planning and Zoning)
Recreational Vehicle Storage and Habitation	Residential property owners can store recreational vehicles and/or trailers on their property. There is not a specified number of how many recreational vehicles can be stored on a property within the Code, leading to Code Enforcement difficulties.	Add additional language in the Code allowing no more than a total of two (2) motorhomes or camping trailers at any time on a residentially zoned property, or a property with a residential use.	• Title 19 (Planning and Zoning)
Home Occupation Business Regulations	Residential property owners can operate a business out of their home, typically called a home occupation. Said businesses are to comply with standards that typically answer to its compatibility with surrounding residential uses. The Code is currently silent on how should be accomplished.	Add additional standards for home occupations (home-based businesses) to ensure residential neighborhood compatibility.	• Title 19 (Planning and Zoning)
<u>Process Improvements</u>			
<u>Topic</u>	<u>Issue</u>	<u>Solution</u>	<u>CVMC Location</u>
Substantial Conformance Review	When a discretionary permit (for example - Design Review Permit) is approved, sometimes minor modifications need to be made after the approval to due changes in circumstances not anticipated during the original approval. The Code is currently silent on this topic.	Add a Section for Substantial Conformance Review.	• Title 19 (Planning and Zoning)
Use Determinations	The Zoning Administrator is granted the authority within the Code to make a Use Determination, for any use that is not listed with a particular zoning designation, and what permitting process should be followed. There	Add additional procedural language that will allow the Zoning Administrator wider authority to allow unlisted land uses in different zones subject to specific findings being made.	• Title 19 (Planning and Zoning)

	currently is not language that allows that same Use Determination to apply to more than one zoning designation.		
Planned Sign Programs	The Code currently specifies that the Planning Commission shall either approve or deny Planned Sign Programs. This causes unnecessary delays for a minor permit type.	Revise the processing guidelines for Planned Sign Programs, to have the decision purview to fall under the Zoning Administrator. This will ensure efficiencies for this minor permit type.	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)
Permit Findings for Approval	The Code currently does not have findings of approval pertaining to Design Review Permits and Coastal Development Permits.	Add findings of approval for Design Review Permits and Coastal Development Permits.	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)
Design Review Permit Requirements	<p>If small architectural features (for example, patio covers and shade structures) are proposed on a residential or non-commercial structure, it requires a discretionary (Design Review) permit, rather than a building permit.</p> <p>Additionally, the non-residential square footage and dwelling unit amounts to distinguish between Zoning Administrator/Administrative Review and Planning Commission decision are too low. This causes smaller projects to have a longer city review process/approval timeline.</p> <p>Currently, Residential projects of 10 units, or more, require Planning Commission decision. Non-residential projects of 20,000 square feet, or greater, require a Planning Commission decision</p>	<p>Revise the Design Review Permit Applicability Requirements to have small architectural features reviewed with the building permit (removal of Design Review requirement) and change square footage and dwelling unit thresholds for Zoning Administrator versus Planning Commission review of Design Review Permits.</p> <p>New thresholds:</p> <ul style="list-style-type: none"> - Residential project of 200 units, or more, require a Planning Commission decision. - Non-residential projects of 100,000 square feet, or greater, require a Planning Commission decision. <p>The change in thresholds would not remove any public noticing component or the ability to appeal a Zoning Administrator decision to Planning Commission.</p>	<ul style="list-style-type: none"> • Title 19 (Planning and Zoning)

Rebuilding Non-Conforming Commercial Structures	If a property owner wants to rebuild a previously non-conforming commercial structure in the same location and at the same size, they would not be able to do so unless the structure incurred 60 percent or more damage resulting from an “Act of God.”	Revise the Code to allow a previously non-conforming nonresidential structures and/or uses, to be reconstructed subject to certain conditions.	• Title 19 (Planning and Zoning)
General Plan/Policy Document Initiation Process	<p>The Code provides for a General Plan Initiation process for private citizens to initiate a process directly to the City Council, to amend certain policy documents, such as the General Plan, Sectional Planning Areas, Specific Plans, etc.</p> <p>This process was previously instituted through a model that the City of San Diego uses and has not been successful in the City and causes confusion for applicants and decision makers when attempting to utilize this Code provision.</p>	Repeal Code sections 19.14.800 to 850, to remove the process entirely.	• Title 19 (Planning and Zoning)
Trash Hauling Requirements for Development Projects	During a project’s entitlement review, a key component of the design and layout planning process is accommodating trash enclosures, and the safe maneuvering for trash, recycling, and green waste pick up from oversized vehicles.	Add a section in the Code stating that a Project shall conform with the City’s Recycling and Solid Waste Planning Manual.	• Title 19 (Planning and Zoning)

Development Oversight Committee

In 2009, the Development Oversight Committee (the “Oversight Committee”) was formed to work with staff to identify areas within the Development Services Department needing improvement and assist in the development of workable solutions. The Oversight Committee is comprised of developers, business owners, community organizations, engineers, architects, and contractors. Staff has convened the Oversight

Committee more frequently over the last year and a half, and bi-monthly over the past six months, to assist staff in identifying areas of the Code needing updates or revisions.

The Oversight Committee was provided with the draft Code amendments at their meeting on January 17, 2024, and approved the proposed amendments.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no current-year fiscal impact to the General Fund or the Development Services Fund as a result of this action.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund or Development Services Fund as a result of this action.

ATTACHMENTS

1. Planning Commission Resolution No. 2024-09
2. Draft Amendment related to Public Right-of-Way Permitting Authority
3. Draft Amendment related to Scheduling Items for City Council Meetings
4. Draft Amendment related to Senate Bill 9 Urban Lot Splits
5. Draft Amendment related to Accessory Dwelling Unit Size Requirements
6. Draft Amendment related to Electric Vehicle Sales and Services
7. Draft Amendment related to the R-3 Zoning Designation Density Requirements
8. Draft Amendment related to Temporary and Permanent Storage Containers
9. Draft Amendment related to Recreational Vehicle Storage and Habitation
10. Draft Amendment related to Home Occupation Business Regulations
11. Draft Amendment related to Substantial Conformance Review
12. Draft Amendment related to Use Determinations
13. Draft Amendment related to Planned Sign Programs
14. Findings for Approval for Design Review Permits and Coastal Development Permits
15. Draft Amendment related to Design Review Permit Requirements
16. Draft Amendment related to Rebuilding Non-Conforming Commercial Structures
17. Draft Amendment related to Initiating Amendments to Policy Documents
18. Draft Amendment related to Trash Hauling Requirements for Projects

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