

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 5.14 “COMMUNITY BENEFIT DISTRICTS” TO
TITLE 5 OF THE CHULA VISTA MUNICIPAL CODE TO
ESTABLISH PROCEDURES FOR THE FORMATION OF
COMMUNITY BENEFIT DISTRICTS IN THE CITY OF CHULA
VISTA

WHEREAS, the City of Chula Vista (the “City”) is a municipal corporation and charter city duly organized and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of Article 2 of the Charter of the City (the “Charter”); and

WHEREAS, the City Council of the City acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of Article 2 of the Charter, finds that the public interest and necessity require the establishment by this ordinance of a procedure for the establishment of property and business improvement districts in the City pursuant to the provisions of the Property and Business Improvement District Law of 1994 (Streets and Highways Code section 36600 et seq.); and

WHEREAS, this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) and the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it adopts a method by which to create government funding mechanisms or constitutes other government fiscal activities, which do not involve any commitment to any specific project that may result in a physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA.

NOW, THEREFORE, the City Council of the City of Chula Vista does find, determine, declare, and ordain as follows:

Section I. The Recitals set forth above are true and correct and are hereby incorporated herein by this reference.

Section II. A new Chapter 5.14, Community Benefit Districts, is hereby added to Title 5 (Business License, Taxes and Regulations) of the Chula Vista Municipal Code to read as follows:

Chapter 5.14

COMMUNITY BENEFIT DISTRICTS

5.14.010 Title.

This chapter is known as the “Community Benefit Districts Ordinance,” and may be cited as such and will be referred to herein as “this chapter.”

5.14.020 Purpose and intent.

The purpose of this chapter is to provide definitions and guidelines, and to establish procedures for the formation of property and business improvement districts as an alternative to procedures set forth in state law. This chapter is adopted pursuant to section 200 of the Charter of the City of Chula Vista, which provides that except as prohibited by the state constitution and where not otherwise restricted by the Charter, the city shall have the full power and authority to make and enforce all laws and regulations with respect to municipal affairs.

5.14.030 Non-Exclusive Procedure

This chapter provides a procedure for the establishment of a property and business improvement district for the purpose of financing certain improvements and activities that is separate from, in addition to, and alternative to, other procedures under state or municipal law, including the Property and Business Improvement District Law of 1994 (Streets and Highways Code § 36600, et seq.,) (the “PBID Law”). This chapter does not prohibit the City Council from establishing a property and business improvement district or conducting proceedings for such district under any other procedure authorized by law instead of, or in conjunction with, the procedures established by this chapter.

5.14.040 Incorporation of State Law

This chapter incorporates the PBID Law. In connection with such incorporation, all references in the PBID Law to a “District” or a “Property and Business District” shall be interpreted as references to a property and business improvement district established pursuant to this chapter. Except where a provision of the PBID Law is inconsistent with a provision of this chapter, all provisions of the PBID Law shall apply to the establishment and operation of any property and business improvement district established pursuant to this chapter. In the event of a conflict between the provisions of this chapter and those of the PBID Law, the provisions of this chapter shall prevail.

5.14.050 Establishment of District

The City Council may establish a property and business improvement district and levy assessments in connection with such a district pursuant to this chapter.

A. Initiation of Proceedings

1. Notwithstanding Streets and Highways Code Section 36621(a) or any other provision of state law, the City Council may initiate proceedings to form a property and business improvement district upon the submission of a written petition signed by property or business owners in the proposed district who will pay more than thirty percent of the assessments proposed to be levied in connection with such district.

2. The amount of assessment attributable to properties or businesses owned by the same owner that exceeds twenty percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than thirty percent of the total amount of assessments proposed to be levied.

B. Formation Costs

1. If so provided in the engineer's report for a property and business improvement district, the assessment levied in connection with such a district may include amounts sufficient to recover the costs incurred in forming the district, including any or all of the following:
 - a. The costs of preparation of the management plan and engineer's report required by state law;
 - b. The costs of preparing, circulating, and submitting the petition to the City Council seeking establishment of the district;
 - c. The costs of printing, advertising, and the giving of published, posted and mailed notices;
 - d. Compensation of any consultant, engineer, or attorney employed to render services in proceedings under this chapter or the PBID Law; and
 - e. Costs incurred by the city for public hearings, notices, ballots, and other proceedings required by law for approval of a new or increased assessment.
2. The costs eligible for recovery under this section shall include the reasonably calculated allocation of city staff time attributable to such activities. The engineer's report shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of costs, and the basis for determining the amount of the additional assessment for recovery of such costs, including the maximum amount of the additional assessment, expressed either as a dollar amount or as a percentage of the underlying assessment.

5.14.060 Duration

- A. The duration of a new property and business improvement district shall be no greater than specified in the resolution of intention for the district and shall in no event exceed a maximum term of up to 20 years.
- B. This section is intended to supplant any shorter limitation set forth in the PBID Law on the duration of assessments levied in connection with a property and business improvement district.

5.14.070 Renewal

A property and business improvement district may be renewed by following the procedures set forth in the PBID Law. Under no circumstances shall any renewal term exceed twenty additional years, and no renewal term shall supplant or replace any portion of an existing term.

5.14.080 Penalties

The remedies provided in the PBID Law for the enforcement of any assessment levied pursuant to this chapter are not exclusive, and additional remedies may be provided at any time. All delinquent payments for assessments levied pursuant to this chapter may be charged interest and penalties.

5.14.090 Disputes

- A. Subject to Streets and Highways Code section 36633, a person or entity shall be prohibited from bringing an action or proceeding challenging the validity of an assessment levied under this chapter unless that person or entity has first submitted a legal objection, in writing, to the City Council detailing the basis for claiming the proposed assessment is illegal or invalid, prior to the adoption of the proposed assessment. The City Council shall be required to consider all such legal objections prior to adopting the proposed assessment, and to respond to such legal objections verbally or in writing explaining whether the legal objection warrants clarifications or changes to the proposed assessment.
- B. The validity of an assessment levied under this chapter shall not be contested in any action or proceeding unless: (1) the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted; and (2) the person or entity contesting the assessment has first complied with subsection (a). Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

Section III. 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 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

David Graham
Director of Economic Development

Marco A. Verdugo
City Attorney