

**ORDINANCE NO. 2017-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING  
CHAPTERS 16.08 AND 18.04 OF THE VISTA DEVELOPMENT  
CODE CONCERNING CERTIFICATES OF OCCUPANCY AND  
THE BUILDING DIVISION OF THE COMMUNITY  
DEVELOPMENT DEPARTMENT**

**The City Council of the City of Vista does ordain as follows:**

**1. Findings.** The City Council hereby finds and declares that:

A. The City Council wants to promote the health, safety and welfare of occupants, workers and patrons of buildings and structures (including the uses therein) located in the City of Vista by adopting administrative procedures and enforcement procedures which assure that such buildings, structures and uses conform to applicable legal standards involving physical safety, building safety, fire protection, and protection of the public, including without limitation, the requirements of the California Building Code.

B. This ordinance is consistent with the California Building Code because the ordinance adopts administrative or enforcement provisions to enhance implementation of that California Building Code without effecting any change to the building standards established by that Code.

C. This ordinance also amends Chapter 18.04 of the Vista Development Code to promote compliance with existing terms of the Vista Development Code adopted for the protection of City residents, workers and visitors. That improved compliance will safeguard against violations which could expose the public to potential hazards, public nuisances, and other unlawful or dangerous conditions. This ordinance is intended to better implement the Vista Development Code without effecting any changes to the allowable uses or development standards contained therein.

**2. Code Amendment**

A. Sections 16.08.100 through 16.08.170 are added to the Vista Development Code to read as follows:

**Section 16.08.100 Department of Building Safety, Building Official,  
Duties**

(A) Consistent with Section 103.2 of the California Building Code, a department of building and safety operates in the City as the Building Division of the Community Development Department, which is overseen by the person serving as building official pursuant to the City's classification schedule, or who discharges

those functions. The building official, pursuant to Section 103.2 of the California Building Code, may appoint or be served by deputies.

(B) The responsibilities and duties of the department of building safety and building official include: (1) all duties assigned pursuant to applicable State law, including the California Building Code as adopted and amended by the City; and (2) such additional duties with respect to buildings, structures and the uses therein which are assigned to the building official by ordinance adopted of the Vista City Council for the purpose of promoting the public safety.

(C) Before the building official issues a certificate of occupancy for a new occupancy or change in use pursuant to Section 16.08.130, the building official shall determine that the new occupancy or change in use would comply with the California Building Code and constitute a lawful use under the Title 18 of the Vista Development Code including any specific plan adopted thereunder. If the building official determines that a new occupancy or change in use would violate the California Building Code or be unlawful under Title 18 of the Vista Development Code or any specific plan adopted thereunder, the building official will deny the application for a certificate of occupancy.

(D) By discharging the duties described in Sections 16.08.100 through 16.08.170, including paragraph C of this Section, it is intended that the building official will promote: (i) the efficient administration of the California Building Code; (ii) lawful occupancies and uses of buildings or structures which conform to the California Building Code; and (iii) compliance with laws governing the construction maintenance, and use of buildings or structures. In turn, these efforts assure that the buildings or structures used by the public, including the occupancies and uses therein, are both safe and lawful. Additionally, such efforts protect the public by deterring a transformation of lawful buildings, structures, occupancies or uses into building, structures occupancies, or uses that constitute a nuisance under Title 18 of the Vista Development Code or Section 8.36.040(B)(15) of the Vista Municipal Code.

#### **Section 16.08.110 Certificate of Occupancy; When Required**

(A) Except as provided in paragraph (C), no new occupancy or change in use of a structure, improvement or portion thereof shall be made until the building official has issued a certificate of occupancy approving that occupancy or use.

(B) For purposes of Chapter 16.08, the term "new occupancy or change in use" means any new, changed, modified, or altered occupancy, use or physical characteristic of all or part of a building or structure which will: (1) produce an occupancy or use of a formerly vacant portion of a building or structure in combination with work or activities requiring a permit or authorization under the Vista Development Code, the California Building Code, or similar code; (2) alter an

existing use of all or part of a building or structure to change the occupancy classification for all or part of a building or structure under the California Building Code; (3) intensify or alter an existing occupancy or use of all or part of a building or structure to require additional or different building or safety measures under the California Building Code; or (4) cause a new use or additional land use to operate from all or part of a building or structure based on the land use categories recognized under Title 18 of the Vista Development Code or specific plans adopted thereunder in combination with work or activities requiring a permit or authorization under the Vista Development Code, the California Building Code, or similar code.

(C) A certificate of occupancy pursuant to this Chapter is not required for existing or new detached one and two family dwellings or townhouses as defined in the California Residential Code, and their accessory structures.

**Section 16.08.120 Application for a Certificate of Occupancy;  
Responsible Parties**

(A) The building official will process applications for certificates of occupancy using a form prepared by the building official upon payment of an application fee in such amount as is set by the City Council by resolution or otherwise allowed by law.

(B) It shall be the responsibility of the owner or occupant whose action will or has necessitated issuance of a certificate of occupancy to apply for and obtain such certificate before effecting, establishing or operating a new occupancy or change in use. It shall be unlawful to effect, establish or operate a new occupancy or change in use without first obtaining a certificate of occupancy, and thereafter maintaining the certificate of occupancy in good standing during all periods that such occupancy or use occurs.

(C) Following issuance of a conformance order for an occupancy or use pursuant to Section 16.08.170, a person aware of the order shall, following the conformance deadline, refrain from participating, owning or managing the occupancy or use covered by the order until such time that a certificate of occupancy is issued for such occupancy or use.

**Section 16.08.130 Application for Certificate of Occupancy; Review**

(A) Upon receipt of a complete application for a certificate of occupancy and the required application fee, the building official shall consider the occupancy, consider the use, and inspect, as appropriate, the building or structure subject to the application. The building official shall issue the certificate of occupancy unless he or she finds a violation of the California Building Code, Title 18 of the Vista Development Code or other regulations that are enforced by the building official. Prior to issuance, all work required in connection with any building

permit issued for such occupancy or use must be completed as determined by a final inspection, except in accordance with Section 16.08.140.

(B) An approved certificate of occupancy shall contain the following information: (1) the approval number; (2) the address of the building or structure; (3) the name and address of the permit holder; (4) a description of that portion of the building or structure for which the certificate is issued; (5) a statement that the described portion of the structure has been inspected for compliance with the requirements of the California Building Code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified; (6) the signature of the building official; (7) the edition of the California Building Code under which the permit was issued; (8) the use and occupancy, in accordance with the provisions of the California Building Code and Title 18 of the Vista Development Code; (9) the type of construction as defined in the California Building Code; (10) the design occupant load in rooms used for public assembly and classified in Occupancy Group A; (11) whether an automatic sprinkler system is provided and, if so, the reason that the automatic sprinkler system is provided; and (12) any special stipulations and conditions of the building permit.

(C) Issuance of a certificate of occupancy shall not be construed as an approval of a violation of any of the provisions of the Vista Development Code, the Vista Municipal Code or any other local, state or federal law or regulation.

#### **Section 16.08.140 Issuance of a Temporary Certificate of Occupancy**

If the building official finds that a building, structure or a portion thereof can be occupied safely, and that no substantial hazard will result from occupancy of any building, structure or portion thereof before all work is completed, a temporary certificate of occupancy may be issued. A certificate of occupancy is required upon completion of the remainder of the work. The building official shall set a time period during which the temporary certificate of occupancy is valid.

#### **Section 16.08.150 Posting of Certificate of Occupancy**

The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

#### **Section 16.08.160 Suspension or Revocation of a Certificate of Occupancy**

The building official may suspend or revoke a certificate of occupancy if the certificate was issued in error, or on the basis of incorrect information, or if the building official determines that the occupancy, use or structure, including any portion thereof, violates any ordinance, regulation, or

provision of the California Building Code or Title 18 of the Vista Development Code.

**Section 16.08.170 Requirement to Obtain a Certificate of Occupancy After An Occupancy or Use is Established**

(A) The building official may issue a conformance order to achieve or confirm compliance with the requirements of this Chapter and the California Building Code. The conformance order will describe the occupancies or uses covered by the order and set a date, known as the conformance deadline, by which: (i) a certificate of occupancy shall be obtained for such occupancies or uses; or (ii) the initial conformance order shall be rescinded if cause is shown. If the conformance deadline passes without the issuance of a certificate of occupancy or a rescission order particular to an occupancy or use, that occupancy or use shall thereafter be deemed an unlawful use operating without a certificate of occupancy in violation of this Chapter and subject to all remedies available to the City. A conformance order may be issued to an owner, operator or manager of a building, structure, business, occupancy or use. Any conformance order shall describe the basis for the order in writing and shall be delivered by the United States postal service, in person, or through other means which provides lawful notice. A conformance deadline shall be set in the reasonable determination of the building official, but shall not be a date more than 30 days after the date the conformance order issues unless good cause is shown for an extension to a period not exceeding 90 days from the date the conformance order was issued.

(B) A conformance order may be issued by the building official when:

(1) The building official has reason to believe that a new occupancy or change in use was established in violation of this Chapter without first obtaining a certificate of occupancy.

(2) The building official has reason to believe that a certificate of occupancy was previously issued for an occupancy or use at a particular location, but the occupancies or uses existing at the location, as of the date of the conformance order, are operating or existing in violation of the California Building Code or Title 18 of the Vista Development Code.

(3) The building official has reason to believe that an occupancy or use is operating without a certificate of occupancy, for any reason, in a manner that violates the California Building Code or Title 18 of the Vista Development Code.

(C) If a certificate of occupancy is not obtained by the conformance deadline, the occupancy or use specified in the order will be classified as an unlawful occupancy or use existing without a required certificate of occupancy. Each day of

continued operation of the occupancy or use beyond the conformance date will constitute a separate violation of this Code.

(D) The operation of an occupancy or use without receipt of a conformance order does not: (1) indicate that such occupancy or use conforms to any law or regulation of any nature; or (2) excuse any legal obligation of an owner, manager, operator or other party of an occupancy or use to comply with such laws or regulations.

### **Section 16.08.180 Violations Involving Certificates of Occupancy**

In the event that any provision of Sections 16.08.100 through 16.08.180 is violated or unsatisfied, any and all enforcement actions and safety actions authorized under California Building Code or the Vista Development Code are hereby authorized, and may be undertaken by the building official or any other enforcement officer or attorney on behalf of the City,

B. Section 18.04.170 of the Vista Development Code is amended to read as follows:

### **Section 18.04.170 Certificates of Occupancy**

(A) Except as provided below, no new occupancy or change in use of a structure, improvement or portion thereof shall be made until the building official has issued a certificate of occupancy approving that occupancy or use. A certificate of occupancy is not required for: (1) existing or new detached one and two family dwellings or townhouses as defined in the California Residential Code, and their accessory structures; or (2) a new use pursuant to Title 18 of the Vista Development Code which commences operation without engaging in work or undertaking activities for which a permit or similar authorization is required under the Vista Development Code, California Building Code, or similar code.

(B) For purposes of this Section, the term "new occupancy or change in use" means any new, changed, modified, or altered occupancy or use of all or part of a building, structure or parcel which will: (1) produce an occupancy or use of a formerly vacant portion of a building, structure or parcel; or (2) alter an existing use of all or part of a building, structure or parcel to change the applicable zoning classifications for that building, structure or parcel based on the land use categories contained in Title 18 of the Vista Development Code or specific plans adopted thereunder.

(C) It shall be the responsibility of the owner or occupant whose action will or has necessitated issuance of a certificate of occupancy to apply for and obtain such certificate before establishing or operating a new occupancy or change in use. It shall be unlawful to establish a new occupancy or change in use without first

obtaining a certificate of occupancy, and thereafter maintaining the certificate of occupancy in good standing during all periods that such occupancy or use occurs.

(D) The City Planner or the City Planner's designee (hereinafter the "permitting official") will process applications for certificates of occupancy using an approved form upon payment of an application fee in such amount as may be set by resolution of the City Council or as may be otherwise allowed by law.

(E) Before the permitting official issues a certificate of occupancy for a new occupancy or change in use pursuant to this Section, the permitting official shall determine that the new occupancy or changed in use would constitute a lawful use under Title 18 of the Vista Development Code and specific plans adopted thereunder. If the permitting official determines that a new occupancy or change in use would violate Title 18 of the Vista Development Code or specific plans adopted thereunder, the permitting official will deny issuance of the certificate of occupancy for that new occupancy or change in use. When issued, the certificate of occupancy shall, at minimum, include the following information: (1) the address of the location covered by certificate of occupancy; (2) the name and address of the permit holder; (3) a description of that areas covered by the certificate; (4) the signature of the permitting official; (5) the nature of the occupancy or use approved; and (6) any limitations or conditions that apply to the approved occupancy or use.

(F) If the permitting official finds that a location subject to an application for a certificate of occupancy can be occupied safely, and that no substantial hazard will result from such occupancy before all work is completed, a temporary certificate of occupancy may be issued. A certificate of occupancy is required upon completion of the remainder of the work. The permitting official shall set a time period during which the temporary certificate of occupancy is valid.

(G) To streamline the application and issuance of certificates of occupancy pursuant to this Section which involve buildings or structures in whole or part, the City Planner may elect to use a single application for the certificates of occupancy required pursuant to Chapter 16.08 of the Vista Development Code and this Section, and have a single certificate of occupancy issued to evidence compliance with Chapter 16.08 of the Vista Development Code and this Section. In the event that such an election is made, the building official shall serve as the permitting official for such applications and shall issue a single certificate of occupancy to evidence compliance with Chapter 16.08 and this Section.

(H) The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

(I) The permitting official may suspend or revoke a certificate of occupancy if the certificate was issued in error, or on the basis of incorrect information, or if the permitting official determines that location, building, or

structure subject to the certificate violate of any ordinance, regulation, or provision of Title 18 of the Vista Development Code.

(J) Issuance of a certificate of occupancy shall not be construed as an approval of a violation of any of the provisions of the Vista Development Code, the Vista Municipal Code or any other local, state or federal law or regulation.

**3. Severability.** If any word, sentence, paragraph, or other portion of this ordinance is deemed to be invalid or unenforceable for any reason by a court of competent jurisdiction, the City Council declares its intent that all remaining words, sentences, paragraphs or portions of the ordinance not held to be invalid or unenforceable shall remain in full force and effect, and shall, be so construed, as if the original ordinance did not contain the invalid or unenforceable language.


**4. Effective Date.** This Ordinance shall be effective on the thirty-first day following the date of its adoption.

**5. Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council held on October 10, 2017 by the following vote:

AYES: Mayor Ritter, Rigby, Franklin, Green

NOES: None

ABSTAIN: None

  
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JUDY RITTER, Mayor

APPROVED AS TO FORM:  
Darold Pieper, City Attorney

ATTEST:  
Kathy Valdez, City Clerk

By:   
\_\_\_\_\_

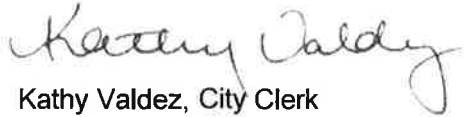
By:   
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APPROVED  
Jonathan B. Stone  
0953 092117



**CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2017-14 to be posted on October 11, 2017, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria E. McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.

A handwritten signature in cursive script that reads "Kathy Valdez".

Kathy Valdez, City Clerk