

ORDINANCE NO. ____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SUNNYVALE AMENDING CHAPTER 19.73
(BY-RIGHT APPROVAL) OF ARTICLE 6 (SPECIAL
HOUSING ISSUES) OF TITLE 19 (ZONING) OF THE
SUNNYVALE MUNICIPAL CODE.**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE FINDS AND DECLARES AS FOLLOWS:

WHEREAS, provisions of the California Government Code require that certain uses be approved as a “use by right” as defined in Government Code Section 65583.2(i); and

WHEREAS, the Housing Element of the City of Sunnyvale provides that the City will adopt an amendment to its zoning code providing for by-right approvals as required by state law; and

WHEREAS, on January 30, 2024, the City Council adopted an urgency ordinance (Ordinance No. 3222-24) and on February 6, 2024, the City Council adopted a regular ordinance (Ordinance No. 3223-24) adding Chapter 19.73 (By-Right Approvals) to the Sunnyvale Municipal Code; and

WHEREAS, the California Department of Housing and Community Development notified that City on February 12, 2024, that the City must make certain changes to the By-Right Approvals ordinance before the City’s Housing element can be certified; and

WHEREAS, Government Code Section 65858 provides that a city may adopt an urgency interim ordinance by a four-fifths vote of the City Council (six affirmative votes) where necessary to protect the public health, safety and welfare, in order to prohibit uses that may be in conflict with a contemplated zoning proposal of the legislative body, which ordinance shall expire 45 days after adoption unless extended by the legislative body; and

WHEREAS, in addition, Sunnyvale City Charter Section 701 authorizes the City Council to adopt an emergency ordinance if passed by at least five affirmative votes; and

WHEREAS, if the City does not adopt an urgency ordinance to amend Chapter 19.73 of the Sunnyvale Municipal Code, applications for by-right approval of housing developments on the designated sites could be filed before the City’s amended by-right approval process is in effect, resulting a delay in processing the applications that would be inconsistent with the City’s obligations under state housing law, and therefore detrimental to the public health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.73.020 AMENDED. Section 19.73.020 (Eligibility) of Chapter 19.73 (By-Right Approval) of Article 6 (Special Housing Issues) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended as follows.

19.73.020. Eligibility.

The following housing development projects are eligible for by-right zoning approval.

(a) (1) [Text unchanged]

(2) [Text unchanged]

~~(3) —The housing development does not require a subdivision as defined in title 18—
of this code or applicable state law.~~

(b) – (c) [Text unchanged]

SECTION 2. SECTION 19.73.030 AMENDED. Section 19.73.030 (Permit requirements) of Chapter 19.73 (By-Right Approval) of Article 6 (Special Housing Issues) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended as follows.

19.73.030. Permit requirements.

(a) An applicant for a housing development project eligible for by-right zoning approval shall submit a ministerial miscellaneous plan permit for approval of the design pursuant to section 19.82.020(b). No discretionary permit or approval is required. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act.

(b) Affordable units in the project shall comply with the requirements of chapter 19.67 (Inclusionary Below Market Rate Ownership Housing Program) or chapter 19.77 (Inclusionary Below Market Rate Rental Housing) as applicable.

SECTION 3. CEQA. The adoption of this ordinance does not require environmental review under the California Environmental Quality Act (CEQA) because it implements a state-mandated program and is therefore not a discretionary action subject to CEQA. (Public Resources Code Section 21080(b)(1), CEQA Guidelines Sections 15268, 15357.)

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect immediately upon adoption and shall expire 45 days after adoption.

SECTION 5. PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance

Introduced and adopted as an urgency ordinance of the City of Sunnyvale at a regular meeting of the City Council held on February 27, 2024, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

DAVID CARNAHAN
City Clerk
Date of Attestation: _____

LARRY KLEIN
Mayor

(SEAL)

APPROVED AS TO FORM:

REBECCA L. MOON
Interim City Attorney