

ORDINANCE NO. 3223-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING CHAPTER 19.73 (BY-RIGHT APPROVAL) OF ARTICLE 6 (SPECIAL HOUSING ISSUES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE, DESIGNATING PARCELS SUBJECT TO BY-RIGHT APPROVAL, AND MAKING RELATED AMENDMENTS TO 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, the City has identified the sites depicted in the maps attached as Exhibit A and incorporated by reference as suitable for by-right housing approvals in order to comply with the state law;

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

SECTION 1. SECTION 19.12.030 AMENDED. Section 19.12.030 (“B”) of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.030. “B”

(1) – (16) [Text unchanged]

(17) “By-right zoning” means sites designated in chapter 19.73 of this code where housing development is entitled to be reviewed as a use by right under state law.

SECTION 2. SECTION 19.18.030 AMENDED. Section 19.18.030 (Permitted, conditionally permitted and prohibited uses in residential zoning districts) of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.030. Permitted, conditionally permitted and prohibited uses in residential zoning districts.

(1) – (4) [Text unchanged]

(5) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if a Use Permit or Special Development Permit is listed in Table 19.18.030.

SECTION 3. SECTION 19.20.040 AMENDED. Section 19.20.040 (Uses requiring use permit; all commercial zoning districts) of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.20.040. Uses requiring use permit; all commercial zoning districts.

(a) – (b) [Text unchanged]

(c) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if a Use Permit or Special Development Permit is listed in Table 19.20.030.

SECTION 4. SECTION 19.24.040 AMENDED. Section 19.24.040 (Uses requiring use permit; office zoning district) of Chapter 19.24 (Office and Public Facilities Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.24.040. Uses requiring use permits; office zoning district.

(a) – (c) [Text unchanged]

(d) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if a Use Permit is listed in Table 19.24.030.

SECTION 5. SECTION 19.28.080 AMENDED. Section 19.28.080 (Permitted, conditionally permitted and prohibited uses in residential DSP blocks) of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.28.080. Permitted, conditionally permitted and prohibited uses in residential DSP blocks.

(a) Use Table. Table 19.28.080 sets forth those uses which are permitted, conditionally permitted, and prohibited in residential DSP blocks and the type of approval a use requires.

(1) – (4) [Text unchanged]

(5) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if a Special Development Permit is listed in Table 19.28.080.

(b) – (c) [Text unchanged]

SECTION 6. SECTION 19.29.060 AMENDED. Section 19.29.060 (Permitted development types and uses) of Chapter 19.29 (Moffett Park Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.29.060. Permitted development types and uses.

(a) – (d) [Text unchanged]

(e) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if a Special Development Permit is listed in Table 19.29.060.

SECTION 7. SECTION 19.35.050 AMENDED. Section 19.35.050 (Permitted, conditionally permitted, and prohibited uses) of Chapter 19.35 (Lawrence Station Area Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.35.050. Permitted, conditionally permitted, and prohibited uses.

(a) Use Table. Table 19.35.050 sets forth those uses which are permitted, conditionally permitted, or prohibited in each of the LSAP districts.

(1) – (4) [Text unchanged]

(5) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the

provisions of Chapter 19.82, even if a Special Development Permit is listed in Table 19.35.050 or in Section 19.35.050(c).

(b) – (c) [Text unchanged]

SECTION 8. SECTION 19.36.060 AMENDED. Section 19.36.060 (Permitted development type and uses) of Chapter 19.35 (El Camino Real Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.36.060. Permitted development type and uses.

(a) Development Types and Use Tables. Tables 19.36.060A and 19.36.060B set forth the development types and uses, respectively, that are permitted, conditionally permitted, and prohibited in the ECR-C, ECR-MU, ECR-O, and ECR-PF zoning districts. Permitted uses in the ECR-R3 and ECR-R4 zoning districts are as identified for the R-3 and R-4 zoning districts, respectively, in Chapter 19.18, Residential Zoning Districts.

(1) – (5) [Text unchanged]

(6) By-right housing developments on sites identified in Chapter 19.73 require approval of a ministerial miscellaneous plan permit in accordance with the provisions of Chapter 19.82, even if Not Permitted or a Special Development Permit is listed in Tables 19.36.060A and 19.36.060B.

(b) [Text unchanged]

SECTION 9. CHAPTER 19.73 ADDED. Chapter 19.73 (By-Right Approval) of Article 6 (Special Housing Issues) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows.

CHAPTER 19.73. BY-RIGHT APPROVAL.

19.73.010. Purpose.

This chapter specifies the process for reviewing housing development projects entitled to review as a “use by right” under state law. In enacting this chapter, it is also the intent of the city to implement the goals, objectives, and policies of the city’s Housing Element of the General Plan.

19.73.020. Eligibility.

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

- (a) (1) The project is located on a site designated below; and,

Downtown Specific Plan

116-124 Carroll Street (APN 209-05-036)
260 Charles Street (APN 165-13-053)
410 Charles Street (APN 165-03-002)
414 Charles Street (APN 165-03-001)
360 East Evelyn Avenue (APN 209-05-017)
380 East Evelyn Avenue (APN 209-05-018)
241-255 South Mathilda Avenue (APN 165-13-062)
259 South Mathilda Avenue (APN 165-13-063)
295 South Mathilda Avenue (APN 165-13-064)
425-427 South Mathilda Avenue (APN 165-03-003)
495 South Mathilda Avenue (APN 165-03-006)
475 West McKinley Avenue (APN 165-13-052)
495 West McKinley Avenue (APN 165-13-051)

El Camino Real Specific Plan

601 South Bernardo Avenue (APN 198-16-002)
629-675 South Bernardo Avenue – only for northerly portion of the lot zoned ECR-MU54, approximately 370-foot distance from El Camino Real (APN 198-16-004)
101-103 East El Camino Real; 576-590 South Murphy Avenue (APN 209-30-048)
105 East El Camino Real (APN 209-30-047)
107 East El Camino Real (APN 211-01-038)
111 East El Camino Real (APN 211-01-045)
121 East El Camino Real (APN 211-01-044)
125 East El Camino Real (APN 211-01-035)
151-161 East El Camino Real (APN 211-01-036)
556 East El Camino Real (APN 211-20-029)
561-587 East El Camino Real (APN 211-01-040)
576-594 East El Camino Real (APN 211-20-036)
592 East El Camino Real (APN 211-20-039)
595 East El Camino Real (APN 211-01-039)
596 East El Camino Real (APN 211-20-033)
598 East El Camino Real (APN 211-20-032)
144-152 West El Camino Real; 701-727 Sunnyvale-Saratoga Road (APN 201-37-012)

154-158 West El Camino Real (APN 201-37-011)
1205 West El Camino Real (APN 161-22-004)
1213 West El Camino Real (APN 161-22-005)
1234-1236 West El Camino Real (APN 198-16-007)
1238 West El Camino Real (APN 198-16-008)
1241-1249 West El Camino Real (APN 161-22-006)
1243-1253 West El Camino Real (APN 161-22-007)
1255 West El Camino Real (APN 161-22-008)
564 South Murphy Avenue (APN 209-30-050)
566-572 South Murphy Avenue (APN 209-30-049)
569 South Sunnyvale Avenue (APN 209-30-044)
575 South Sunnyvale Avenue (APN 209-30-045)
575 South Sunnyvale Avenue (APN 209-30-046)

Lawrence Station Area Plan

1155 Reed Avenue (APN 213-01-003)
1165 Reed Avenue (APN 213-01-002)
1164 Willow Avenue (APN 213-01-004)

Moffett Park Specific Plan

1272 Borregas Drive (APN 110-33-033)
1315-1327 Chesapeake Terrace (APN 110-37-014)
1313 Geneva Drive, 281-283 East Java Drive (APN 110-33-031)
1120 Innovation Way (APN 110-27-047)
241 East Java Drive (APN 110-33-035)
No address, to the northwest of 1265 Crossman Avenue (No APN, on common area parcel near APN 110-34-026)

No Specific Plan

420-450 Persian Drive (APN 110-29-008)
500 East Remington Drive (APN 211-23-019)
685 East Remington Drive (APN 211-20-046)
689-693 East Remington Drive (APN 211-20-047)
697 East Remington Drive (APN 211-20-045)
1110 Sunnyvale-Saratoga Road (APN 211-35-033)
1118 Sunnyvale-Saratoga Road (APN 211-35-003)
413-415 Tasman Drive (APN 110-29-006)
425 Tasman Drive (APN 110-29-005)

(2) Twenty percent of the total number of housing units in the project are proposed to be available for rent to lower income households at affordable rent or to purchase at affordable sales prices, as applicable, pursuant to chapter 19.67 or chapter 19.77 of this code, as applicable, and

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

(b) Permanent supportive housing as defined in Government Code Section 65660(a) that meets all of the requirements of Government Code Sections 65660 et seq.

(c) Low barrier navigation center as defined in Government Code Section 65660(a) that meets all of the requirements of Government Code Sections 65660 et seq.

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.

(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.

19.73.040. Review of application.

(a) The application for the ministerial miscellaneous plan permit approval shall be reviewed for conformance with objective standards established by the General Plan, applicable Specific Plans, Zoning Code, design standards, and other adopted standards.

(b) As provided by Government Code Section 65583.2(i), the housing development project is exempt from the California Environmental Quality Act.

(c) Permanent supportive housing shall be reviewed consistent with the provisions of Government Code Sections 65650 et seq.

SECTION 10. SECTION 19.82.020 AMENDED. Section 19.82.020 (When Required) of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.020. When required.

- (a) [Text unchanged]
- (b) Ministerial Reviews.
 - (1) Accessory dwelling units as regulated in Chapter 19.79;
 - (2) Dual urban opportunity dwelling units as regulated in Chapter 19.78.
 - (3) By-right housing developments as regulated in Chapter 19.73.
- (c) – (l) [Text unchanged]

SECTION 11. SECTION 19.82.030 AMENDED. Section 19.82.030 (Procedures and decisions) of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

- (a) [Text unchanged]
- (b) Ministerial Reviews. For miscellaneous plan permit applications listed in this section, the director of community development, without notice or hearing, shall consider the application ministerially without discretionary review. When the application is in compliance with the relevant standards, the permit shall be issued. The director's decision may be appealed to planning commission only by the applicant or the owner of the subject property.
 - (1) Accessory dwelling units shall be reviewed for compliance with the standards set forth in Chapter 19.79, within the time frames set forth in that chapter.
 - (2) Dual opportunity dwelling units shall be reviewed for compliance with the standards set forth in Chapter 19.78.
 - (3) By-right housing projects shall be reviewed for compliance with the standards set forth in Chapter 19.73.

SECTION 12. 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 13. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after adoption.

SECTION 14. 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 at a regular meeting of the City Council held on January 30, 2024, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on February 6, 2024, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

DocuSigned by:

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DAVID CARNAHAN
City Clerk

Date of Attestation: 02/09/2024

APPROVED:

DocuSigned by:

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LARRY KLEIN
Mayor

(SEAL)

APPROVED AS TO FORM:

DocuSigned by:

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REBECCA L. MOON
Interim City Attorney