

Ordinance No. _____

Emergency Ordinance of the Council of the City of Palo Alto Amending Chapters 18.14 (Housing Incentives), 18.76 (Permits and Approvals), and 18.77 (Processing Permits and Approvals) of Title 18 (Zoning) of the Palo Alto Municipal Code to Implement Programs 1.3 of the City of Palo Alto 2023-2031 Housing Element

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations.

(a) On May 8, 2023, the City Council adopted the City of Palo Alto 2023-2031 Housing Element (“Housing Element”) pursuant to Government Code Section 65585.

(b) In accordance with AB 1397 (2017), Program 1.3, Sites Used in Previous Housing Cycle, requires rezoning and a “by right” approval process for qualifying projects proposed on certain housing opportunity sites that were included as opportunity sites in prior housing elements.

(c) Government Code Section 65583.2, subdivision (c) and the Housing Element require that the City complete its implementation of Program 1.3 by January 31, 2024, which is one year from the statutory deadline for adoption of the Housing Element.

(d) Ordinance No. 5608, adopted on December 11, 2023, accomplished the required rezoning for all sites subject to Program 1.3.

(e) This ordinance implements the “by right” development process for sites subject to Program 1.3 and makes conforming changes to existing provisions of Title 18.

(f) The City Council finds and declares that this emergency ordinance is necessary as an emergency measure to preserve the public peace, health or safety by promoting the development of much-needed housing in Palo Alto, and by ensuring compliance with the deadlines and requirements of state law set forth above.

(g) The City Council further finds and declares that the need for housing development presents a current and immediate threat to the public health, safety, or welfare and that the provisions of this ordinance will remove barriers that contribute to this threat.

SECTION 2. Section 18.14.050 (By Right Status of Qualifying Projects on Specified Housing Opportunity Sites) of Chapter 18.14 (Housing Incentives) of Title 18 (Zoning) of the Palo Alto Municipal Code is added to read as follows:

18.14.050 By Right Status of Qualifying Projects on Specified Housing Opportunity Sites

(a) Multi-family residential projects on housing opportunity sites shall be a “use by right,” subject to all of the following requirements:

(1) The site is designated in Appendix D of the Housing Element to accommodate lower income households and it is either:

(A) a nonvacant site included in one prior housing element; or

(B) a vacant site that has been included in two or more consecutive, prior housing elements;

- (2) The site was not previously approved to develop a portion of City’s regional housing need allocation;
- (3) The project restricts at least 20 percent of the units to rents or sales prices affordable to lower income households; and
- (4) The site has sufficient water, sewer, and other dry utilities available and accessible.

(b) “use by right” shall have the same meaning as provided in Government Code Section 65583.2, subdivision (i).

(c) “lower income households” shall have the same meaning as provided in Health and Safety Code Section 50079.5.

(d) Qualifying projects shall be reviewed pursuant to Section 18.77.074.

SECTION 3. Section 18.77.020 (Architectural Review) of Chapter 18.76 (Permits and Approvals) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows (additions underlined, deletions struck through, and omitted text left unchanged indicated by [. . .]):

18.76.020 Architectural Review

(a) Purpose

[. . .]

(b) Applicability

No permit required under Title 2, Title 12 or Title 16 shall be issued for a major or minor project, as set forth in this section, unless an application for architectural review is reviewed, acted upon, and approved or approved with conditions as set forth in Section 18.77.070.

(1) Exempt Projects. The following projects do not require architectural review:

[. . .]

(C) Housing development projects, as defined in Government Code Section 65589.5(h)(2) (the Housing Accountability Act), but only ~~to the extent~~ if such projects qualify for ministerial review under Government Code sections 65913.4 or 65951, or if they comply with all applicable objective standards, in this code and the City’s discretion is thereby qualify for streamlining under limited by Government Code sections 65589.5, 65913.4, or 65905.5. Such projects shall be subject to the processes set forth in Sections 18.77.073 or 18.77.074, as applicable.

[. . .]

SECTION 4. Section 18.76.025 (Multi-Family Residential Projects Exempt Architectural Review) of Chapter 18.76 (Permits and Approvals) of Title 18 (Zoning) of the Palo Alto Municipal Code is added to read as follows:

18.76.025 Multi-Family Residential Projects Exempt from Architectural Review

No permit required under Title 2, Title 12 or Title 16 shall be issued for a multi-family residential project that is exempt from Architectural Review under Section 18.76.020, subdivision (b)(1)(C), unless it first receives a planning approval from the Planning Director under this Section. Projects subject to ministerial review or that are defined as a “use by right” under state law shall be reviewed under Section 18.77.074.

Projects that are not subject to ministerial review, but that comply with all applicable objective standards, shall be reviewed under Section 18.77.073.

SECTION 5. Section 18.77.073 (Streamlined Housing Development Project Review Process) of Chapter 18.77 (Processing of Permits and Approvals) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows (additions underlined, deletions struck through, and omitted text left unchanged indicated by [. .]):

18.77.073 Streamlined Housing Development Project Review Process

(a) Applicability

This section shall apply to applications for residential mixed-use and multifamily housing development projects, as defined in Government Code Section 65589.5(h)(2), that comply with all applicable objective standards in this code and for which the City’s discretion is thereby qualify for streamlining under limited by Government Code sections 65589.5, or 65905.5.

[. .]

SECTION 6. Section 18.77.074 (Ministerial and By Right Review Processes) of Chapter 18.77 (Processing of Permits and Approvals) of Title 18 (Zoning) of the Palo Alto Municipal Code is added to read as follows:

18.77.074 Ministerial and By Right Review Process

(a) Purpose and Applicability

This section is intended to define a streamlined, ministerial review process for qualifying Housing Development Projects that are submitted pursuant to streamlining provisions in AB 2162 (2018), AB 1397 (2017), and SB 35 (2017). This section shall apply to multi-family residential projects that are subject to ministerial review or defined as a “use by right” in state law, including, but not limited to, Government Code Sections 65651, 65583, 65583.2, and 65913.4. This section does not apply to the creation of an accessory dwelling unit and/or junior accessory dwelling unit.

The review required by this section shall not involve the exercise of discretion in a manner that would constitute a “project” for purposes of the California Environmental Quality Act (CEQA). This section does not, however, excuse a project involving a subdivision from compliance with Title 21 and the subdivision map processes set forth therein, which may result in a “project” for purposes of CEQA.

(b) Staff level review.

Applications under this section shall be reviewed by City staff for compliance with applicable objective standards in the City’s Comprehensive Plan, Specific Plans, Area Plans, Municipal Code, and other rules and regulations. A decision on the application shall be made by the Planning Director within any timeframes dictated by applicable state law.

(c) Public study session.

Prior to preparing a written decision, the Director may, in his or her sole discretion, refer the application to the Architectural Review Board or to other advisory boards or commissions for informal review. The recommendations of such boards and commissions shall not be binding.

(d) Public notices.

Notice of a public meeting to consider the application shall be given at least seven days prior to the meeting by mailing to the applicant and all residents and owners of property within 600 feet of the project. Notice shall include the address of the property, a brief description of the proposed project, and the date and time of the hearing.

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 8. In accordance with the California Environmental Quality Act (CEQA), the City prepared an Addendum to the 2017 Comprehensive Plan Environmental Impact Report (EIR), analyzing the potential environmental impacts of the 2023-2031 Housing Element. On May 8, 2023, the City Council adopted Resolution No. 10107, finding that the Addendum and the 2017 EIR adequately analyzed the environmental impacts of the Housing Element, including Program 1.3 of the Housing Element, which this ordinance implements.

SECTION 9. This ordinance shall be effective immediately upon adoption by a four-fifths vote of the City Council, unless extended or repealed by the City Council, shall remain in effect for 45 days, or until a replacement ordinance becomes effective, whichever occurs first.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning and Development Services