

ORDINANCE NO. 2024-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, ADDING CHAPTER 18.98 TO THE VISTA DEVELOPMENT CODE REGARDING BY RIGHT APPROVAL TO ENSURE COMPLIANCE WITH THE ADOPTED 6TH CYCLE HOUSING ELEMENT 2021-2029 AS REQUIRED BY STATE LAW

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

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

A. Provisions of the California Government Code require that certain uses be approved as a “use by right” as defined in the Government Code Section 65583.2(i).

B. The Housing Element of the City of Vista provides that the City will adopt an amendment to its zoning ordinance providing for by right approvals as required by state law.

C. The Planning Commission of the City of Vista has reviewed the proposed amendments to the Development Code at a duly and properly noticed public hearing on September 3, 2024, and considered all evidence, including but not limited to public testimony and the evaluations and recommendations of staff, and has found that the proposed amendment is consistent with goals and policies of the City’s General Plan, and recommends adoption of the proposed amendment by the City Council.

D. The City Council conducted a duly and properly noticed public hearing on September 24, 2024, to consider the proposed amendment to the Development Code and considered all evidence, including but not limited to public testimony and the evaluations and recommendations of staff; and finds and determines that the proposed amendment to the Development Code is necessary to implement state law as well as achieve the goals, objectives, and policies of the City’s Housing Element.

E. The City Council finds that this Ordinance is covered by the Negative Declaration (SCH # 2021030046) that was prepared for the 2021-2029 Housing Element and previously approved by the City Council on June 22, 2021. Per Section 15162 of the California Environmental Quality Act Guidelines, City staff has reviewed the previously approved Negative Declaration and find that there are no substantial changes that would require additional environmental review for this Ordinance.

2. Code Amendment.

A. Chapter 18.98, By Right Approval, is added to the Vista Development Code to read as follows:

“Chapter 18.98

By Right Approval

Sections:

- 18.98.010 Purpose**
- 18.98.020 Definitions**
- 18.98.030 Eligibility for By Right Approval**
- 18.98.040 By Right Approval Process**
- 18.98.050 Affordable Housing Requirement**
- 18.98.060 Interpretation**

Section 18.98.010 Purpose

This chapter specifies the review and approval process for residential uses entitled to review as a “use by right” as defined in Government Code Section 65583.2, relating to the inventory of land suitable for residential development to meet the City’s Regional Housing Needs Assessment (RHNA). State law requires that certain housing development projects be approved as a use by right if at least twenty (20) percent of the units are affordable to lower-income households. In enacting this chapter, it is the intent of the City of Vista to implement state law as well as achieve the goals, objectives, and policies of the City’s Housing Element of the General Plan.

Section 18.98.020 Definitions

“Affordable” has the same meaning as provided in Health and Safety Code Section 50053 as to rental units and Section 50052.5 as to ownership units.

“Housing development project” has the same meaning as provided in Government Code Section 65589.5(h)(2), which is a use consisting of any of the following: (i) residential units only; (ii) mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or (iii) transitional housing or supportive housing.

“Lower-income households” has the same meaning as provided in Health and Safety Code Section 50079.5.

“Regional Housing Needs Assessment” or **“RHNA”** means the process mandated by state housing law as part of the periodic process of updating the General Plan Housing Element that quantifies the need for housing within each jurisdiction during specific planning periods.

“Sites Inventory” means the inventory of sites in the City suitable for residential development that is included in the City’s Housing Element, as further described in Government Code Section 65583.2.

“Use by right” means that the local government’s review of the project may not require a conditional use permit, planned development permit, or other discretionary local government review or approval that would constitute a “project” under the California Environmental Quality Act as defined in Government Code Section 65583.2. 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.

Section 18.98.030 Eligibility for By Right Approval

Notwithstanding any other provision of the Development Code, a housing development project in which at least twenty (20) percent of the units are affordable to lower-income households shall be a use by right, and permitted to develop at the applicable minimum density described in Government Code Section 65583.2(c)(3), on the following sites:

- A. Nonvacant sites that meet the following requirements:
 - 1. The site is designated in the Sites Inventory of the City’s current adopted Housing Element as accommodating a portion of the RHNA for lower-income households;
 - 2. The site was listed in the Sites Inventory in a Housing Element for a prior Housing Element planning period; and
 - 3. The site was not approved to develop a portion of the City’s housing need during the previous planning period when the site was in the Sites Inventory.
- B. Vacant sites that meet the following requirements:
 - 1. The site is designated in the Sites Inventory of the City’s current adopted Housing Element as accommodating a portion of the RHNA for lower-income households;
 - 2. The site was listed in the Sites Inventory in a Housing Element for two or more consecutive prior Housing Element planning periods; and
 - 3. The site was not approved to develop a portion of the City’s housing need during the previous planning period when the site was in the Sites Inventory.

Section 18.98.040 By Right Approval Process

A. The process for by right approval for eligible housing development projects under this chapter is a ministerial zoning clearance pursuant to Chapter 18.71 of the Development Code. Prior to submission of a zoning clearance application, the applicant shall participate in a no fee pre-application review with a multi-disciplinary City review team to discuss project components and requirements.

B. The zoning clearance application shall be reviewed by the Community Development Director or their designee for conformance with objective standards, including but not limited to those established by the General Plan, applicable Specific Plans, Zoning Code, the City’s adopted objective design review standards, and applicable standard conditions of approval. The Community Development Director or

their designee shall ministerially issue the zoning clearance if the application complies with all applicable objective standards.

C. As provided by Government Code Section 65583.2(i), by right approvals pursuant to this section are exempt from the California Environmental Quality Act.

Section 18.98.050 Affordable Housing Requirement

A regulatory agreement shall be recorded against any eligible housing development project approved by right under this chapter. The agreement shall be recorded at the earliest time possible, but in all events, prior to issuing a building permit. The regulatory agreement shall be in a form approved by the City Attorney, with an affordability period for a minimum of 45 years for privately financed projects and 55 years for publicly financed projects.

Section 18.98.060 Interpretation

If any portion of this chapter conflicts with any applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with state law. Statutory references in this ordinance include successor provisions.”

3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of the Ordinance, or its application to any person or circumstance, is for any reason held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

4. Effective Date. This Ordinance shall be in full force and effect on the thirty-first day following the date of its adoption.

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5. Adoption. INTRODUCED AND ADOPTED at a meeting of the City Council of the Chartered City of Vista held on September 24, 2024, by the following vote:

AYES: Green, Contreras, Melendez, O'Donnell

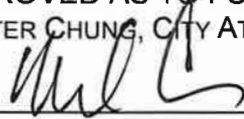
NOES: Mayor Franklin

ABSTAIN: None

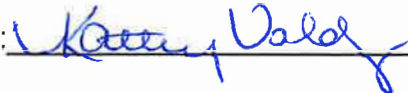


JOHN FRANKLIN, MAYOR

APPROVED AS TO FORM:
WALTER CHUNG, CITY ATTORNEY

By: 

ATTEST:
KATHY VALDEZ, CITY CLERK

By: 

APPROVED
Walter C. Chung
20240916081000

CERTIFICATION

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2024-07 to be posted on September 25, 2024, 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 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 blue ink that reads "Kathy Valdez". The signature is written in a cursive style with a large, looped initial 'K'.

Kathy Valdez, City Clerk