

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE TO ADD A NEW SECTIONS TO CHAPTER 5.08 OF TITLE 5, CHAPTER 18.20 OF TITLE 18, AND CHAPTER 20.10 OF TITLE 20, ADD A NEW CHAPTER TO TITLE 20, AND ADD NEW PARTS TO CHAPTER 20.100 AND CHAPTER 20.120 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE AND AMEND THE ZONING DISTRICT MAP TO EXEMPT FOR-SALE RESIDENTIAL DEVELOPMENT IN A SENIOR HOUSING OVERLAY (“OVERLAY”) FROM CERTAIN REQUIREMENTS OF THE INCLUSIONARY HOUSING ORDINANCE; EXEMPT ANY SPECIFIC PLAN THAT IMPLEMENTS AN OVERLAY FROM THE REQUIREMENTS OF SPECIFIC PLANS IF IT WERE ADOPTED BY VOTER INITIATIVE; CREATE A NEW “SPECIFIC PLAN DISTRICT” ZONING DISTRICT AND “SPECIFIC PLAN PERMITS” SECTION; AND REZONE CERTAIN REAL PROPERTY IN THE EVERGREEN AREA FROM AGRICULTURE - PLANNED DEVELOPMENT (A(PD)) TO SPECIFIC PLAN (SP).

WHEREAS, on September 8, 2017, proponents of an initiative filed, with the Office of the City Clerk, a notice of intent to circulate a petition to, among other things, amend the San José Municipal Code and City’s Zoning District Map; and

WHEREAS, on November 27, 2017, the proponents of an initiative submitted petition signatures to the Office of the City Clerk. On November 28, 2017, the City Clerk transferred these petition signatures to the County of Santa Clara Registrar of Voters for verification pursuant to Elections Code Section 9115; and

WHEREAS, on January 10, 2018, the Registrar of Voters certified that the initiative petition qualified with the sufficient number of signatures with the total of 22,364, which is 5.02% of the Registered Voters in the City of San José in the last report filed by the Registrar of Voters with the Secretary of State in effect at the time the notice of intent to circulate the petition was published; and

WHEREAS, on January 23, 2018, the City Council accepted the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters and

ordered a report on the effects of the proposed ordinance consistent with Elections Code Section 9212; and

WHEREAS, on February 13, 2018, the City Council accepted the report pursuant to Elections Code Section 9212; and

WHEREAS, Elections Code Section 9215(a) and San José City Charter Section 1603(a)(2) allows the City Council to, without alteration, adopt the proposed initiative ordinance to amend Title 5, Title, 18, and Title 20 of the San José Municipal Code and amend the City's Zoning District Map;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 5.08 of Title 5 of the San Jose Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

5.08.320A Partial Exemption for For-Sale Residential Development in a Senior Housing Overlay

This Chapter shall apply to Residential Development in a Senior Housing Overlay except as specified below.

- A. For-Sale Residential Development in a Senior Housing Overlay, as specified in the San José Envision 2040 General Plan, shall be exempt from the provisions of Section 5.08.400, subsections A and B of Section 5.08.460, Section 5.08.470 (other than subsections C and E.3), and Part 5 of this Chapter if it meets the following alternate requirements:
1. A Specific Plan is adopted for the Residential Development and requires the Residential Development to include Inclusionary Units on the same site as the Residential Development and meeting one of the following requirements:
 - a. Twenty percent (20%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost, consisting of fourteen percent (14%) available for rent at an Affordable Housing Cost to Moderate Income Households and six percent (6%) available for rent at an Affordable Housing Cost to Very Low Income Households; or

- b. Twenty percent (20%) of the total Dwelling Units in the Residential Development shall be made available for purchase at an Affordable Housing Cost to households earning no more than one hundred ten percent (110%) of the area median income. Such units may be sold to households earning no more than one hundred twenty percent (120%) of the area median income;
2. The quality of exterior design and overall quality of construction of the Inclusionary Units shall be consistent with the exterior design of all market rate units in the Residential Development and meet all site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this code, except as otherwise provided in the Specific Plan for the Residential Development, including but not limited to substantial conformance with all design guidelines included in the Specific Plan;
3. The Specific Plan for the Residential Development specifies all of the following with respect to the Inclusionary Units: (i) the timing of construction, and (ii) requirements with respect to (a) geographic location in the Residential Development, (b) parking, (c) the amenities, and (d) square footage and bedroom count; and
4. At the time of First Approval, the applicant shall elect whether to comply with the provisions of Section 5.08.320A.A.1.a or 5.08.320A.A.1.b. If the Specific Plan is approved by initiative, then "First Approval" as used in this Chapter with respect to the Residential Development authorized by the Specific Plan means the First Approval of the Residential Development by the City after the effective date of the initiative.

SECTION 2. Chapter 18.20 of Title 18 of the San Jose Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

18.20.010A Senior Housing Overlay Specific Plans by Initiative

Notwithstanding anything to the contrary in this Chapter, the requirements of this Chapter shall not apply to any specific plan adopted by citizens' initiative that implements a Senior Housing Overlay pursuant to the General Plan.

SECTION 3. Chapter 20.10 of Title 20 of the San Jose Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

20.10.075 Specific Plan District

- A. The specific plan district is hereby established as a City zoning district classification. It may be referred to as specific plan zone or specific plan district or as SP district or SP zone.
- B. The SP district may be applied to territory that is subject to a specific plan adopted in accordance with state law governing specific plans and, to the extent applicable, Chapter 18.20.
- C. Development of the subject property can thereafter occur only pursuant to an effective Specific Plan Permit issued in conformity with the applicable specific plan.

SECTION 4. Title 20 of the San Jose Municipal Code is hereby amended by adding a Chapter to be numbered and entitled and to read as follows:

Chapter 20.65
SP - Specific Plan District

20.65.010 General Provisions

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished in any SP district, except in accordance with the provisions set forth in this chapter.

20.65.020 Uses Allowed

The permitted, conditional, and special uses in a specific plan district are those specified in the applicable specific plan.

20.65.030 Development Regulations

All development in specific plan districts shall substantially conform to the development regulations set forth in the applicable specific plan.

20.65.040 Performance Standards

All development in specific plan districts shall substantially conform to the following performance standards:

- A. In the SP district, no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
 - 1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm

- sewer system, into or within any water system or water, or into the atmosphere; or
2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply as shown in Table 20-137 in certain areas of the SP zoning district, as determined by the uses allowed in that area by the applicable specific plan.

Table 20-137
Specific Performance Standards Applicable in Certain Areas in the SP District

Uses Permitted by the Specific Plan in the Area	Additional Performance Standards Shall Be the Same As:
Residential, Active Open Space	Specific Performance Standards for Residential Zoning Districts
Commercial, Public and Quasi-Public	Specific Performance Standards for Commercial Zoning Districts
Industrial	Specific Performance Standards for Industrial Zoning Districts
Passive Open Space	Specific Performance Standards for Open Space and Agricultural Zoning Districts

SECTION 5. Chapter 20.100 of Title 20 of the San Jose Municipal Code is hereby amended by adding a Part to be numbered and entitled and to read as follows:

Part 8.5
Specific Plan Permits

20.100.990 Specific Plan Permits

- A. The provisions of this Part shall apply to and govern the issuance of specific plan permits, commonly referred to as “SP permits” for developments in specific plan districts requiring an SP permit.
- B. A specific plan that requires development to obtain an SP permit shall address, at a minimum, all of the following requirements:
 - 1. When an SP permit is required;
 - 2. The governing bodies that take the initial action and any appellate action on the SP permit;
 - 3. The required findings to approve the SP permit;
 - 4. The hearing and appeal procedures for the SP permit; and
 - 5. The process to amend or adjust the SP permit.
- C. An SP permit addresses aesthetic and functional aspects of development and may also be a use permit. Unless otherwise stated in the applicable specific plan, an SP permit shall constitute the exclusive development and use permit required for development in specific plan districts covered by a specific plan requiring an SP permit. Any SP permit issued under this part shall be subject to the general provisions of this chapter related to development permits except as otherwise provided in the applicable specific plan.

SECTION 6. Chapter 20.120 of Title 20 of the San Jose Municipal Code is hereby amended by adding a Part to be numbered and entitled and to read as follows:

**Part 7
Specific Plan Districts**

20.120.600 Specific Plan District

The Municipal Code provisions for the adoption of specific plans shall also apply to the initiation, adoption, and amendment of any specific plan district, unless the specific plan district is adopted by initiative.

SECTION 7.

The district map of the City is hereby amended to rezone all the real property depicted in Exhibit A and labeled “Specific Plan,” attached hereto and incorporated herein by this reference, from “Agriculture - Planned Development (A(PD))” to “Specific Plan (SP).”

The district map of the City is hereby amended accordingly.

PASSED FOR PUBLICATION of title this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

AMENDMENT TO LAND USE ZONING

The property that is the subject of the Evergreen Senior Homes Specific Plan adopted by this Initiative is rezoned from “Agriculture – Planned Development (A(PD))” to “Specific Plan (SP).” A depiction of the zoning, as amended by the Initiative, is shown below:

