

**ORDINANCE NO. 2894-09**

**[Effective January 1, 2010]**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO ADOPT GREEN BUILDING STANDARDS BY ADDING DEFINITIONS TO CHAPTER 19.12 (DEFINITIONS); BY AMENDING CERTAIN SECTIONS OF CHAPTERS 19.22 (INDUSTRIAL ZONING DISTRICTS), 19.29 (MOFFETT PARK SPECIFIC PLAN DISTRICT), 19.32 (BUILDING HEIGHTS, LOT COVERAGES AND FLOOR AREAS) AND 19.82 (MISCELLANEOUS PLAN PERMIT); AND BY ADDING CHAPTER 19.39 (GREEN BUILDING REGULATIONS) TO TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE**

WHEREAS, the built environment has a vast impact on the natural environment, human health, and the economy, according to the Environmental Protection Agency. By adopting green building strategies, local agencies can maximize both economic and environmental performance; and

WHEREAS, green building policies can achieve sustainability, that is to live in a manner where the Earth's resources must be used at a rate at which they can be replenished, however, there is evidence that humanity is living unsustainably, and that an unprecedented collective effort is needed to return human use of natural resources to within sustainable limits; and

WHEREAS, buildings currently account for 39% of total energy use, 12% of the total water consumption, 68% of the total electricity consumption and 38% of carbon dioxide emissions, thus by adopting green building strategies, local agencies can reduce local carbon emissions, with the most significant benefits obtained when integrated into a broader strategy of reducing vehicle trips, water reduction, energy conservation and by constructing green buildings at any stage, including the design and construction phases; and

WHEREAS, sustainable design can contribute to the conservation of natural resources, increase of energy efficiency and improvement to indoor air quality; and

WHEREAS, green building techniques afford economic benefits such as reduce operating costs, create, expand and shape markets for green products and services, improve occupant productivity and optimize life-cycle economic performance; and

WHEREAS, green building policies provide social benefits such as enhanced occupant comfort and health, heightened aesthetic qualities, minimized strain on local infrastructure and improvement to overall quality of life; and

WHEREAS, the City of Sunnyvale is committed to encouraging sustainable development throughout the city, by providing education and information to the community and by acknowledging the importance of sustainable development concepts and practices; and

WHEREAS, sustainable design embraces environmentally-conscious design techniques in the field of architecture which seeks to minimize the negative environmental impact of buildings by enhancing efficiency and moderation in the use of materials, energy, and development space; and

WHEREAS, it is the intention of the City Council, by enactment of the Green Building Ordinance, to increase energy efficiency in buildings, to encourage water and resource conservation, minimize waste generated by construction projects, provide durable buildings that are efficient and economical to own and operate, to promote the health and productivity of residents, workers, and visitors to the city, and to recognize and conserve the energy embodied in existing buildings; and

WHEREAS, the purpose of enactment of ordinances set forth below is to implement the goals and objectives of the General Plan through the promotion of green building design, construction and operation which contribute to the environmental, social and economic health of residents and businesses throughout the City.

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

SECTION 1. CHAPTER 19.12 AMENDED. Sections 19.12.030, 19.12.040, 19.12.080, 19.12.140, 19.12.150, 19.12.180, 19.12.190, 19.12.200, 19.12.210, 19.12.220, and 19.12.230 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read, as follows:

**19.12.030. “B”**

(1)-(12) [Text unchanged.]

(13) “Build it Green” (BIG) means the Build It Green organization.

(13)–(14) [Re-number (14)–(15), consecutively; text unchanged.]

**19.12.040. “C”**

(1)-(9) [Text unchanged.]

(10) “Compliance threshold” means the minimum number of points or rating level of a green building rating system that must be attained for a particular covered project, as outlined in the Green Building Tables.

(10)–(17) [Re-number (11)–(18), consecutively; text unchanged.]

**19.12.050 “D”**

(1)-(4) [Text unchanged]

(5) “Design Intent” means that the building plans shall include all green building aspects as prepared and certified by a qualified, accredited green building professional and does not include LEED or BIG certification.

**19.12.080. “G”**

(1)-(5) [Text unchanged.]

(6) “Green Building project checklist” means a checklist or scorecard developed for the purpose of calculating a green building rating.

(7) “Green Building rating system” means the rating system associated with specific Green Building criteria and used to determine compliance thresholds, as outlined in the Standards of Compliance of section 19.39.040. Examples of rating systems include, but are not limited to, the LEED™, GreenPoint Rated systems, and California Green Building Code.

(8) "Green Building Tables" means tables adopted by Resolution of the City Council, as amended from time to time, which provide standards for compliance, including size thresholds based on square footage or valuations, incentives for implementation of green building techniques, and timing of phasing of time of the Green Building Regulations.

(9) “GreenPoint Rated” means a residential Green Building rating system developed by the Build It Green organization.

(10) “GreenPoint Rated Verification” means verification of compliance by a certified GreenPoint Rater, resulting in Green Building certification by Build It Green including green point allocation across all of the resource categories.

(11)–(12) Renumber consecutively; text unchanged.]

**19.12.140. “M”**

(1) “Major alterations” means non-residential alterations where interior finishes are removed and significant upgrades to structural and mechanical, electrical and/or plumbing systems are proposed where areas of such construction are 10,000 gross square feet or more in existing commercial, office and industrial buildings.

(2) "Major tenant" means a business or use occupying ten thousand or more square feet of floor area.

(2)-(6) [Renumber (3)–(7), consecutively; text unchanged.]

**19.12.150. “N”**

(1) “New large non-residential interiors” means first-time tenant improvements where areas of such construction are over 5,000 gross square feet or more of existing buildings.

(1)–(5) [Renumber (2)–(6), consecutively; text unchanged.]

(7) “Non-residential” generally means buildings used for industrial, commercial, office, place of assembly or recreation.

(8) “Nuisance” means any operation or installation on land which is offensive or interferes with the enjoyment and use of property by adjacent owners.

**19.12.180. “Q”**

(1) “Qualified Green Building professional” means a person trained through the USGBC as a LEED™ accredited professional or through Build It Green as a certified Green Building professional, or similar qualifications if acceptable to the director of community development. For projects requiring “self-verification,” the project architect or designer is considered a qualified Green Building professional.

**19.12.190. “R”**

(1)-(9) [text unchanged.]

(10) “Residential alterations” means any addition, rehabilitation, repair, remodeling, change, or modification to an existing building, where changes exceed the valuation thresholds established in the Green Building Rating system. The valuation of renovation improvements shall be determined by the director of community development based on the valuation per square foot of construction in the annually adopted fee resolution. The valuation used to determine thresholds related to the Green Building Rating system may exclude the cost of (a) seismic upgrades, (b) accessibility upgrades, or (c) photovoltaic panels or other solar energy or similar devices exterior to the building.

(10)–(19) [Renumber (11)–(20), consecutively; text unchanged.]

**19.12.200. “S”**

(1)-(3) [text unchanged.]

(4) “Self verification” means verification by the project architect, designer or a qualified green building professional certifying that the project has met the standards and has attained the compliance threshold as indicated for the covered project type as set forth in the Standards for Compliance outlined in section 19.39.040.

(4) – (28) [Renumber (5) – (29), consecutively; text unchanged.]

**19.12.210. “T”**

(1) “Temporary” means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

(2) “Temporary structures” means buildings and structures intended for use at one location for not more than one year.

(2) – (10) [Renumber (3) – (11), consecutively; text unchanged.]

**19.12.220. “U”**

(1) “Unit of a community housing project” means the element of a community housing project which is to be exclusively owned or occupied individually, and not in common with the owners of other elements of the project.

(2) “Upgrades” means improvements where the majority of work requires only electrical, plumbing and/or mechanical permits.

(3) “Use” means the purpose for which land or a building is intended or for which it may be occupied or maintained.

(a) “Accessory use” means a use incidental to the principal use of a lot or a building.

(b) “Compatible use” means a use which fits in with or is in harmony with other existing uses in the same zoning district, neighborhood or surrounding area.

(c) “Permitted use” means a use which is allowed in a zoning district without special approval or the securing of a use permit.

(d) “Prohibited use” means a use which is not allowed in a zoning district under any circumstances.

(e) “Unenclosed use” means the storage of items which are not completely enclosed or fully screened from view from off the site, including but not limited to vehicles, trailers and cargo containers or other storage containers which do not have a foundation.

**19.12.230. “V”**

(1)-(2) [text unchanged.]

(3) “Verification by LEED™ AP” means verification by a LEED™ accredited professional certifying that each LEED™ checklist point listed was verified to meet the requirements to achieve that point. The LEED™ AP shall provide supporting information from qualified professionals (e.g. civil engineer, electrical engineer, energy consultant, commissioning agent, etc.) to certify compliance with each point on the checklist. Documentation of construction consistent with building plans calculated to achieve energy compliance is sufficient verification in lieu of post-construction commissioning.

SECTION 2. TABLE 19.22.030 AMENDED. Footnote 3 of Table 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read, as follows:

**TABLE 19.22.030**

**Permitted, Conditional Permitted and Prohibited Uses in Industrial Zones**

In the table, the letters and symbols are defined as follows:

- P** = Permitted use
- MPP** = Miscellaneous plan permit required
- UP** = Use permit required
- N** = Not permitted, prohibited
- FAR** = Floor area ratio restrictions
- >** = Greater than
- N/A** = FAR does not apply

Use Regulations by Zoning District USE	M-S Districts FAR <sup>3</sup>	M-S Districts	M-S/POA Districts	M-3 Districts FAR <sup>3</sup>	M-3 Districts
[Table Unchanged]					

<sup>1</sup> Subject to provisions of Chapter 19.60.

<sup>2</sup> Subject to provisions of Chapter 9.41.

<sup>3</sup> 5% FAR bonus for green buildings may apply. See Resolution No. 368-09 for green building tables adopted.

<sup>4</sup> Automobile service stations with sale of groceries, beer and wine, or both, require findings as set forth in 19.98.020(i) and/or (j), as applicable.

**SECTION 3. CHAPTER 19.29 AMENDED.** Sections 19.29.110, 19.29.120, 19.29.130, and 19.29.150 of Chapter 19.29 (Moffett Park Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read, as follows:

**19.29.110. Major Moffett Park Design Review Permit.**

- (a) [text unchanged]
- (b) (1)-(3) [text unchanged]
  - (4) The project design team includes a qualified Green Building Professional; and
  - (5) The project meets green building requirements as set forth in the adopted Green Building Tables as shown in Chapter 19.39.
    - (A)-(B) [text unchanged]
- (c) Application and Processing. An application for a major MP-DR shall be submitted in accordance with the procedures set forth in Chapter 19.98 and on forms and with such additional information provided in 19.39.040 as designated by the director of community development. The director of community development, without notice or hearing, may:
  - (1) Approve the processing of the project as a major MP-DR as requested or as changed, modified or conditioned by the director of community development if the director determines that the project meets the conditions required by subsection (b) of this section.
  - (2) Deny the processing of the project as a major MP-DR if the director determines that the project does not meet the required conditions. In such a case, the application will be processed as a major MP-SDP.
- (d) [text unchanged]

**19.29.120. Major Moffett Park Special Development Permit.**

- (a) Purpose. The major MP-SDP provides a process for applicants to create higher intensity projects in situations where use of green building techniques may not be available pursuant to Chapter 19.39 of Title 19 for the use or site, or where there are potentially significant environmental impacts which require the preparation of an environmental impact report. The procedures identified in this section shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expirations, extensions, revocation and infractions.
- (b)-(d) [text unchanged]
- (e) Findings. The planning commission or the city council may approve any major MP-SDP, upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the permit will both:
  - (1) Attain the objectives and purposes of the MPSP; and
  - (2) Ensure that the site improvements, general appearance of proposed structures, and the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing Uses being made of, adjacent properties.

**19.29.130. MPSP green building development requirement.**

Effective January 1, 2009, until modified by phasing in of compliance standards set forth in the Green Building Tables effective January 1, 2010, and as implemented by Chapter 19.39, of the Sunnyvale Municipal Code, all new development in the MP district greater than ten thousand square feet, regardless of the underlying zoning or proposed level of FAR, is required to meet the “design intent” of a “LEED™ Certified” or better level (meaning LEED “Silver”, “Gold” or “Platinum” levels) of green building design. Determination of a project square footage for triggering the green building threshold shall be made by the director of community development as described in the MPSP. For purposes of this section, “design intent” means site planning and building design that achieves at least the minimum number of LEED™ credits for a “Certified” building rating, as determined by the director of community development. The director of community development shall have the authority to determine the level of credit achievement in accordance with the procedures set forth in the MPSP. In the event the director of community development determines that a greater than ten thousand square foot project, until modified by the Green Building Tables, effective January 1, 2010 does not meet the required design intent, the application shall be processed as a major MP-SDP, regardless of its classification in Table 19.29.050.

**19.29.150. Deviations from development standards.**

- (a) [text unchanged]
- (b) Deviations from the following standards are not permitted:
  - (1)-(3) [text unchanged]
  - (4) Green building requirement as set forth in Chapter 19.39 and the Green Building Tables, unless exempted by 19.39.060 for hardship or infeasibility.

**SECTION 4. CHAPTER 19.32 AMENDED.** Sections 19.32.020 and 19.32.075 of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read, as follows:

**19.32.020. Building height and lot coverages.**

Building height and lot coverages shall be according to the provisions set forth in Table 19.32.020, except that all lots located within the DSP district shall conform to provisions set forth in Chapter 19.28.

**TABLE 19.32.020  
Building Height, Lot Coverage and Floor Area Ratio**

Zoning District	Building Stories	Building Height (ft.) <sup>8,9</sup>	Lot Coverage (%) <sup>9</sup>	Floor Area Ratio (FAR) (%) <sup>9</sup>
R-0	2	30	45	45% FAR or 4,050 sq. ft. of gross floor area, whichever is less <sup>6</sup>
R-1	2	30	45	45% FAR or 4,050 sq. ft. of gross floor area, whichever is less <sup>6</sup>

R-1.5	2	30 <sup>1</sup>	40	50
R-1.7/PD	2	30	40	50
R-2 (single-family dwellings)	2	30	40	45% FAR or 4,050 sq. ft. of gross floor area, whichever is less <sup>6</sup>
R-2 (all uses other than single-family dwellings)	2	30	45	55 <sup>6</sup>
R-3 Townhomes	3	35	40	
R-3 (all other uses)	2	30	40	
R-4	4	55	40	
R-5	4	55	40	
R-MH	2	30	None	
O	2	30	40	
P-F	2			
DSP	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170
C-1	2	40	35	
C-2	8	75 <sup>5</sup>	35	55 (Future Site D) as described in Section 19.32.070(c)(3)
C-3	8	75 <sup>4</sup>	35	
C-4	2	40	35	
M-S	8	75	45	35 <sup>5,7</sup>
M-3	8	75	45	35 <sup>5,7</sup>

<sup>1</sup> Walls facing the side yards cannot exceed twelve feet in height within twelve feet of the side property lines. Second story wall height is limited to twenty-one feet, exclusive of pitched roof structure.

<sup>2</sup> One-half foot shall be added to the front, side and rear yard setbacks for each foot that the building exceeds the maximum height allowed in the most restrictive abutting district.

<sup>3</sup> Coverage shall not exceed the maximum structural coverage in the most restrictive zoning district abutting this district.

<sup>4</sup> Hotels and motels may exceed seventy-five feet if allowed by use permit.

<sup>5</sup> Fifty percent FAR for commercial storage or warehousing, Section 19.32.070(d).

One hundred percent FAR for Future Site B, as described in Section 19.32.070(c)(1).

Seventy percent FAR for Future Site C, as described in Section 19.32.070(c)(2).

Fifty percent FAR for Future Site E, as described in Section 19.32.070(c)(4).

<sup>6</sup> Applications for residences which exceed the FAR set forth in this table shall be considered pursuant to Section 19.80.040(c).

<sup>7</sup> A five-foot height bonus is allowed when underground parking is included in the design. See Section 19.46.040.

<sup>8</sup> Refer to Chapter 19.56 for deviations to height, lot coverage, and floor area ratio to accommodate and/or provide incentives for installation of solar energy systems.

**SECTION 5. CHAPTER 19.32 AMENDED.** Section 19.32.075 of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) of the Sunnyvale Municipal Code is repealed:

**19.32.075. [Repealed]**

SECTION 6. Chapter 19.39 ADDED. Chapter 19.39 (Green Building Regulations) is added to Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

## **Chapter 19.39**

### **GREEN BUILDING REGULATIONS**

- 19.39.010. Purpose.**
- 19.39.020. Covered projects.**
- 19.39.030. Standards for compliance.**
- 19.39.040. Administrative procedures.**
- 19.39.050. Non-compliance.**
- 19.39.060. Hardship or infeasibility exemption.**
- 19.39.070. Appeal.**

#### **19.39.010. Purpose.**

The purpose of this chapter is to implement sustainable development with development and construction practices designed to use natural resources in a manner that does not eliminate, degrade or diminish their usefulness for future generations, to enhance the public health and welfare by promoting the environmental and economic health of the city through the design, construction, maintenance, operation and deconstruction of buildings and other site development, and to incorporate green building practices into all development projects. The green building provisions referred to in this chapter are designed to achieve the following goals:

- (a) Increase energy efficiency in buildings;
- (b) Encourage water and resource conservation;
- (c) Minimize waste generated by construction projects;
- (d) Provide durable buildings that are efficient and economical to own and operate;
- (e) Promote the health and productivity of residents, workers, and visitors to the city; and
- (f) Recognize and conserve the energy embodied in existing buildings.

#### **19.39.020. Covered projects.**

This chapter applies to covered projects, defined as means any planning permit application(s) or building permit application(s) for new construction, addition, or remodel of an existing public facility or private building, except that it shall not apply to any project for which a complete building permit application has been submitted prior to July 1, 2009 as determined by Chief Building Official. Projects within the scope of this chapter are:

- (a) Newly constructed residential buildings;
- (b) Residential alterations;
- (c) Newly constructed non-residential buildings that are 5,000 gross square feet or more.
- (d) New large non-residential interiors.
- (e) Major alterations of existing non-residential buildings.

**19.39.030. Standards for compliance.**

(a) The Standards for Compliance shall be implemented in three phases as shown in the Green Building Tables, effective January 1, 2010, as adopted by Resolution of the City Council, and as amended from time to time.

(b) The following projects, regardless of scope of work, are exempt from this section:

- (1) Solar or energy generation/conservation facilities;
- (2) Heritage buildings;
- (3) Fire, flood, wind, earthquake, or other natural disaster damage repairs;
- (4) Disabled access upgrades;
- (5) Seismic upgrades;
- (6) Exterior modifications;
- (7) Swimming pools;
- (8) Temporary structures
- (9) Anything in the opinion of the director of community development that is a hardship or infeasible per Section 19.39.060;

(c) In order to qualify for the incentives, as set forth in the Green Building Tables, for industrial and office projects, applicant shall submit a Transportation Demand Management Program and analysis for the entire project site that demonstrates that vehicle-trip rates for the project are not greater than the number that would be generated by development of the site at the permitted FAR.

(d) It is intended that the Green Building FAR Bonus permitted by this section shall supersede any other FAR allowances provided for in section 19.32.070 of this code.

(e) Public recognition for exceptional green building design. Those projects that implement exceptional green building design and construction practices that meet thresholds for incentives as specified in the above standards for compliance section shall be recognized by the city and eligible to receive a plaque that may be displayed on the structure.

(f) Wherever the LEED or GreenPoint Rate systems include a minimum energy or other performance requirement, the applicant may choose to meet the minimum performance requirements with an alternative equivalent method approved by the Director of Community Development.

(g) Maintenance of required features. Any structure subject to this Chapter shall maintain the green building features required herein, regardless of subsequent alterations, additions, or changes of use, unless subject to equal or more stringent requirements.

(h) The city council shall establish by resolution, and shall periodically review and update as necessary, Green Building Standards for Compliance. The Standards for Compliance shall include, but are not limited to, the following:

- (1) The types of projects subject to regulation (covered projects);
  - (2) The Green Building rating system to be applied to the various types of projects;
  - (3) Minimum thresholds of compliance for various types of projects;
- and
- (4) Timing and methods of verification of compliance with these regulations.

**19.39.040. Administrative procedures.**

(a) The director of community development shall promulgate any rules and guidelines necessary or appropriate to achieve compliance with the requirements of this chapter and as more fully outlined in the administrative procedures promulgated by the director of community development.

(b) The procedures for compliance documentation shall include, but not be limited to, the following:

(1) Upon submittal of an application for any discretionary planning entitlement (if required) for any covered project, application materials shall include the appropriate completed checklists, as required by the standards for compliance specified in section 19.39.040, accompanied by a text description of the proposed green building program and expected measures and milestones for compliance.

(2) Upon submittal of an application for a building permit, building plans for any covered project shall include a checklist and green building program description, reflecting any changes proposed since the planning entitlement phase (if a planning entitlement was required). The checklist shall be incorporated onto a separate plan sheet included with the building plans

(3) Prior to final building inspection and occupancy for any covered project, a qualified building professional, if required by the standards for compliance, shall provide evidence of adequate green building compliance or documentation to the director of community development to satisfy the requirements of the Standards for Compliance for review and approval. This information shall include, but is not limited to:

(A) Documentation that verifies incorporation of the design and construction related credits specified in the project approval for the covered project;

(B) A letter from the qualified green building professional that certifies that the covered project has been constructed in accordance with the approved Green Building project checklist;

(C) Any additional documentation that would be required by the LEED™ reference guide for LEED certification (if required), or by the GreenPoint Rated manuals for GreenPoint Rated certification (if required); and

(D) Any additional information that the applicant believes is relevant to determining that a good faith effort has been made to comply with this chapter.

**19.39.050 Non-Compliance.**

If, as a result of any inspection, the city determines that the covered project does not or is unlikely to comply with the approved plans or Green Building checklist, a stop work order shall be issued if the director of community development determines that continuation of construction activities will jeopardize the project's ability to meet the required compliance threshold. The stop work order shall remain in effect and final certificate of occupancy withheld (moved) until the director of community development determines that the project will be brought into compliance with the approved plans and/or checklist.

**19.39.060. Hardship or infeasibility exemption.**

If a project applicant believes that circumstances exist presenting an unreasonable hardship to meet the requirements of this chapter, the applicant may apply for an exemption as set forth in this section. In applying for an exemption, the burden is on the applicant to show significant hardship. Acceptance or denial of an exemption is at the discretion of the director of community development. Hardship exemptions will only be granted in unusual circumstances based upon a showing of good cause and a determination that the public interest is not served by compliance or other compelling circumstances.

An unreasonable hardship shall be defined as practical infeasibility, difficulties, or results inconsistent with the general purposes of this chapter or harms designated heritage resources.

**19.39.070. Appeal.**

(a) Any aggrieved applicant or person may appeal the determination of the director regarding: (1) the granting or denial of an exemption pursuant to the Building Code; or (2) compliance with any other provision of this chapter.

(b) Any appeal must be filed in writing with the community development department not later than fifteen (15) days after the date of the determination by the director. The appeal shall state the alleged error or reason for the appeal.

(c) The appeal shall be processed and considered at a Building Code Board of Appeals hearing in accordance with the Building Code.

(d) An appeal from the decision of the Building Code Board of Appeals may be made to the City Council, which decision shall be final.

SECTION 7. CHAPTER 19.82 AMENDED. Section 19.82.020 of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is amended to read as follows:

(a) General Reviews:

(1)-(24) [text unchanged]

(26)-(27) [Renumber (25)-(26), consecutively; text unchanged.]

(b) - (k) [text unchanged]

SECTION 8. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a 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 section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 9. CEQA COMPLIANCE. A Negative Declaration has been prepared in accordance with the California Environmental Quality Act. The Negative Declaration found no significant impacts would result from implementation of this ordinance. The environmental review found that measures required by this ordinance can be mitigated by requirements that would be incorporated as a result of those requirements (such as Transportation Demand Management program, location of projects near transit and the like).

SECTION 10. EFFECTIVE DATE. This ordinance shall be in full force and effect on January 1, 2010.

SECTION 11. POSTING AND 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 March 24, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney