

ORDINANCE NO. 2906-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 19.20 (COMMERCIAL ZONING DISTRICTS), 19.22 (INDUSTRIAL ZONING DISTRICTS), 19.24 (OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS), 19.28 (DOWNTOWN SPECIFIC PLAN), 19.29 (MOFFETT PARK SPECIFIC PLAN), 19.44 (SIGNS), 19.48 (FENCES, DISTANCES BETWEEN BUILDINGS AND EXTENSIONS INTO YARDS), 19.54 (WIRELESS TELECOMMUNICATION FACILITIES), 19.88 (USE PERMITS), AND 19.90 (SPECIAL DEVELOPMENT PERMITS), OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO STREAMLINING PROCESSES

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.20.030

Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts

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

- P** = Permitted use
- UP** = Use permit required
- MPP** = Miscellaneous plan permit
- N** = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
1. [Text unchanged.]				
2. Service Commercial				
A. Bulk sale of building and construction materials, feed, fertilizers, soil conditioners and fuel (except motor vehicle fuel)	N	N	N	UP
B. Commercial storage	N	N	N	MPP ¹
C. Crafts shops such as cabinetmakers, upholsterers, taxidermists, etc.	N	N	N	MPP
D. Custom fabricators	N	N	N	MPP
E. Donation centers for used goods ²	N	UP	UP	UP
F. Livestock or poultry housing or sales	N	N	N	N
G. Open or unenclosed storage ancillary to a permitted use (screened from public view)	P	P	P	P

H. Outdoor storage of materials or supplies ancillary to a permitted use, not screened from public right-of-way	N	N	N	MPP ¹
I. Printers, copiers, and engravers using chemical processes	N	N	N	MPP ¹
J. Repair shops for household appliances and apparel	P ¹	P ¹	P ¹	P ¹
K. Retail service uses such as copiers, locksmiths, and engravers not using chemical processes	P ¹	P ¹	P ¹	P ¹
L. Self storage “mini warehousing”	N	UP	UP	MPP ¹
M. Trailer, automobile, boat, motorcycle and truck services and repairs	N	UP	UP	MPP ¹
3. [Text unchanged.]				
4. Eating/Drinking Establishments				
A. Drive-through restaurants	UP	UP	N	N
B. Nightclubs and cocktail lounges, where alcoholic beverages are sold and consumed	UP	UP	P	N
C. Restaurants and fast food restaurants that may have on sale beer and wine alcohol beverage service.	MPP	MPP	MPP	MPP
D. Restaurants and fast food restaurants that have on sale general alcohol beverage service.	UP	UP	UP	UP
5. [Text unchanged.]				
6. Education, Recreation, and Places of Assembly				
A. Education—Recreation and enrichment	MPP ⁵	MPP ⁵	MPP ⁵	N
B. – H. [Text unchanged.]				
7. Office				
A. Ground floor dependent office less than 1,000 square feet	P	P	P	MPP
B. Ground floor dependent office greater than 1,000 square feet	MPP	MPP	MPP	UP
C. Office not located on the ground floor	P	P	P	P
D. Financial institutions	MPP	MPP	MPP	UP
E. Research and development office	N	N	N	N
F. Medical clinics	MPP	MPP	MPP	UP
8. – 10. [Text unchanged.]				

¹ Construction of a new building greater than 10,000 square feet requires a Use Permit.

² Donation centers in C-1 are only allowed on sites of 4 or more acres. Miscellaneous Plan Permits for donation centers shall be reviewed for compliance with Council Policy on operations, location and appearance. Within 5 days of approving an MPP for a donation center, the director shall post the subject property providing notice of the date of the approval action. In addition, written notice shall be sent to property owners and occupants of adjacent properties.

³ Subject to provisions of Chapter 9.41.

⁴ Except that daytime and overnight parking of up to five commercial motor vehicles (of a type that are less than 10,000 pounds in gross vehicle weight with not more than two axles) that are owned or operated by the person(s), company or business which conducts the primary use is permitted, provided the vehicles are used for purposes of delivery, pick up or service to patrons of the primary use only, do not utilize on-site required parking and are not utilized for purposes of advertising.

- ⁵ Educational and recreational uses and places of assembly shall not be located in retail centers in a manner that disrupts the flow of pedestrians between retail establishments.
- ⁶ Except caretaker residence ancillary to a permitted use.
- ⁷ 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.
- ⁸ In the C-4 zoning district, wholesale storage or warehousing is permitted up to 35% FAR, and requires a use permit for >35% FAR.

SECTION 2. TABLE 19.22.030 AMENDED. Table 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.22.030
Permitted, Conditional Permitted and Prohibited Uses in Industrial Zoning Districts

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 Zoning Districts FAR³	M-S Zoning Districts	M-S/POA Zoning Districts	M-3 Zoning Districts FAR³	M-3 Zoning Districts
1. [Text unchanged.]					
2. Office, Research and Development					
A. Administrative, professional, medical and research and development offices	To 35% > 35%	P UP	P UP	To 35% > 35%	P UP
B. Medical clinics	To 35% > 35%	MPP UP	MPP UP	To 35% > 35%	MPP UP
C. Financial institutions, banks, and savings and loan associations without drive-through facilities	To 35% > 35%	MPP UP	MPP UP	To 35% > 35%	UP UP
D. Explosive or propellant research and development related manufacturing, processing, assembly and storage	N/A	UP	UP	N/A	UP
3. Commercial					
A. – I. [Text unchanged.]					
J. Restaurants and fast food restaurants that may have on sale beer and wine alcohol beverage service.	N/A	MPP	MPP	N/A	MPP

K. Restaurants and fast food restaurants that have on sale general alcohol beverage service.	N/A	UP	UP	N/A	UP
L. Self storage (mini warehouse)	N/A	UP	UP	N/A	UP
4. – 6. [Text unchanged.]					

¹ Subject to provisions of Chapter 19.60.

² Subject to provisions of Chapter 9.41.

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

⁴ 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. TABLE 19.24.030 AMENDED. Table 19.24.030 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:

**TABLE 19.24.030
Permitted, Conditionally Permitted and
Prohibited Uses in Office and Public Facilities Zoning Districts**

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

P = Permitted use

UP = Use permitted required

MPP = Miscellaneous plan permit required

N = Not permitted, prohibited

OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS	O	P-F
1. Office/Care Facilities		
A. Administrative, professional, medical, and research and development offices	P	UP
B. Medical clinics	MPP	UP
C. Financial institutions such as banks and savings and loan associations	MPP	N
D. Hospitals	N	UP
E. Rest homes and convalescent hospitals	UP	UP
2. – 6. [Text unchanged.]		

¹ Subject to provisions of Chapter 9.41.

² Recycling centers must be located in convenience zones, (the area within a one-half mile radius of a supermarket) as defined in Public Resources Code Section 14509.4.

SECTION 4. TABLE 19.28.070 AMENDED. Table 19.28.070 of Chapter 19.28 (Downtown Specific Plan) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.070

Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

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

- P** = Permitted use
- SDP** = Use permitted required
- MPP** = Special development permit required
- N** = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20
1. – 2. [Text unchanged.]								
3. Commercial Uses								
A. – R.[Text unchanged.]								
S. Restaurants and fast food restaurants with no alcohol sales or on sale beer and wine alcohol beverage service.	P	P	P	SDP	SDP	SDP	P	SDP
T. Restaurants and fast food restaurants that have on sale general alcohol beverage service.	SDP	SDP	SDP	SDP	SDP	SDP	SDP	SDP
4. – 6. [Text unchanged.]								

- ¹ Any lease for office use entered into prior to June 1, 2001 and any subsequent renewals of such existing leases, shall not be subject to the permit requirements set forth in this section. New office leases entered into with new or different tenants on or after June 1, 2001 shall be subject to the provisions of this section.
- ² Subject to provisions of Chapter 9.41.
- ³ Except that daytime and overnight parking of up to five commercial motor vehicles (of a type that are less than 10,000 pounds in gross vehicle weight with not more than two axles) that are owned or operated by the person(s), company or business which conducts the primary use is permitted, provided the vehicles are used for purposes of delivery, pick up or service to patrons of the primary use only, do not utilize on-site required parking and are not utilized for purposes of advertising.

SECTION 5. TABLE 19.29.050 AMENDED. Section 19.29.050 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:

Table 19.29.050

Permitted, Conditionally Permitted and Prohibited Uses in MPSP Subdistricts

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

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.

SDP = Special development permit. A Moffett Park Special Development Permit is required.

MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.

N = Not permitted. Prohibited.

Use		Specific Plan Subdistrict		
		MP-TOD	MP-I	MP-C
1. – 3. [Text unchanged.]				
4.	Eating/Drinking Establishments			
A.	Nightclubs and cocktail lounges, where alcoholic beverages are sold and consumed	SDP	SDP	SDP
B.	Outdoor seating areas	MPP	MPP	MPP
C.	Restaurants with drive-through service	N	SDP	SDP
D.	Restaurants and fast food restaurants not serving alcoholic beverages, or on sale beer and wine alcohol beverage service, no drive-through	MPP	MPP	MPP
E.	Restaurants and fast food restaurants that serve on sale general alcoholic beverages	SDP	SDP	SDP
F.	Take-out restaurants, no drive-through	MPP	MPP	MPP
5. – 8. [Text unchanged.]				

SECTION 6. SECTION 19.44.020 AMENDED. Section 19.44.020 of Chapter 19.44 (Signs) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.44.020. Types of signs and related regulations.

(1) – (7) [Text unchanged.]

(9) – (13) [Text unchanged; Renumber (8) – (12).]

(13) Civic Event Sign. A temporary sign promoting a community, patriotic or other event of general public interest taking place within the city. Civic event signs are exempt from regulation provided that such sign is located:

(15) – (16) [Text unchanged; Renumber (14) – (15).]

(16) Construction Project Sign. A temporary sign identifying the persons, firms or businesses associated with any construction work on property where the sign is located, or announcing the type or availability of the building, use or function for which the construction is intended.

(18) – (19) [Text unchanged; Renumber (17) – (18).]

(19) Flags.

(a) Commercial Flags. A flag which advertises or directs attention to a residence, business or commodity, service, entertainment or attraction. The flag may include wording or consist of only colors and/or designs. Commercial flags may be reviewed through a miscellaneous plan permit provided that:

(i) Location. The flag is located in an industrial zoning district or in conjunction with a multifamily residential use;

(ii) Materials. The flag is constructed of durable materials that are intended for outdoor use such as altra fab, pryatone, sunbrella or similar quality fabric. Non-fade inks shall be used.

(iii) Number of Flags. There is no more than one commercial flag on an industrial parcel, and no more than four flags on a parcel with a multifamily residential use;

(iv) Size. The maximum flag size in an industrial area is thirty (30) sq. ft. A maximum of fifteen (15) sq. ft. is permitted in association with a multifamily residential use.

(v) Height. The maximum height from ground level of each flag shall be thirty (30) feet in industrial zones and twenty (20) feet in association with multifamily residential uses, including any pole or structure to which it is affixed; and

(vi) Lateral Dimension. The maximum lateral dimension of each flag shall be twenty-five percent of the height of the pole or other structure to which it is affixed.

(b) Noncommercial Flags. Every flag except a “commercial flag” (examples: American flag, state of California flag, not corporate flags). Noncommercial flags are exempt from regulation provided that:

(i) Number of flags. The flags do not exceed three in number per parcel;

(ii) Height. Each flag does not exceed twenty feet in height in residential zoning districts; Each flag does not exceed thirty feet in height in nonresidential zoning districts;

(iii) Lateral dimension. The maximum lateral dimension of such flags does not exceed twenty-five percent of the height of the pole or other structure to which it is affixed; and

(iv) Flag poles. The height measurement shall include any pole or structure to which such flags are affixed.

(21) – (25) [Text unchanged; Renumber (20) – (24).]

(25) Grand Opening Sign. A temporary sign commemorating the opening of a business, a change in business name, or a change in local ownership, as determined by the issuance of a business license, and including the reopening of a business which closed for remodeling for at least two weeks. The display of one or more grand opening signs must occur within six months of a qualifying event. Display of any such grand opening sign(s) can occur only once per business, except as otherwise permitted for remodeling.

(27) – (44) [Text unchanged; Renumber (26) – (43).]

(46) – (49) [Text unchanged; Renumber (44) – (47).]

(48) Produce Stand Sign. A sign indicating the sale of farm or orchard products at a location open to the public on a seasonal basis only, or which is open to the public on a year-round basis but is not part of a multiple tenant building or use.

(51) – (54) [Text unchanged; Renumber (49) – (52).]

(53) **Real Estate Sign.** An on-site sign pertaining to the sale, exchange, lease or rental of buildings or real property. A sign advertising the initial sale or rental of new buildings is considered a construction project sign and not a real estate sign.

(56) – (72) [Text unchanged; Renumber (54) – (70).]

SECTION 7. SECTION 19.44.120 AMENDED. Section 19.44.120 of Chapter 19.44 (Signs) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.44.120. Regulations for specific types of temporary signs.

The following lists the specific regulations related to types of temporary signs.

(a) **Banners.** Banners may be displayed provided that:

(1) The banner is stretched taut and secured against the building, fence or wall and not attached to landscaping;

(2) No banner exceeds sixty (60) square feet in size;

(b) **Ground Sign Sleeve.**

(1) The ground sign sleeve is made of durable fabric or material and is stretched taut around the ground sign.

(2) They may not increase the size of the ground sign

(3) They may not obscure the address numbers on the ground sign.

(c) **Balloons.**

(1) The size of any balloon does not exceed fourteen (14) inches in diameter;

(2) There are no more than five (5) balloons shall be aggregated in a cluster;

(3) There are no more than twenty (20) clusters on a property.

(4) The maximum height is no more than ten (10) feet above ground level (i.e., finished grade of the lot); and

(5) The permit and frequency restrictions shall not apply to balloons displayed between the hours of 12:01 a.m. and 12:00 midnight on Saturday, Sunday or federal holidays. All other requirements of this chapter shall apply to balloons displayed on weekdays.

(d) **Pennants, Ribbons, Streamers and Other Objects that Move with the Wind.** All pennants, ribbons and streamers displayed on a property are considered one temporary sign.

(e) **Large Inflatable Objects.** Large Inflatable objects may be located on top of the building but the total height of the displayed object may not exceed the height of the building. (i.e. a 25 ft. tall large inflatable object may not be placed on a 15 ft. tall building.) Large inflatable objects may not be located within required parking, landscaping or walkway areas.

(f) **Bounce Houses.** Bounce houses may be displayed without a temporary sign permit provided they meet the following requirements:

(1) Bounce houses are only allowed in commercial zoning districts or with commercial uses in nonresidential zoning districts.

(2) The bounce house is displayed only on weekends between the hours of 12:01 a.m. and 11:59 p.m. on Saturday and/or Sunday or federal holidays Display of a bounce house on weekdays requires a temporary sign permit.

- (3) The height of the bounce house does not exceed the height of the building in front of which it is displayed;
- (4) There is only one (1) bounce house displayed per business entity.
- (g) **Temporary Ground Signs.** Temporary ground signs may be constructed of metal, wood or other durable material with posts.

SECTION 8. CHAPTER 19.44 AMENDED. Section 19.44.125 is added to Chapter 19.44 (Signs) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.44.125 Type and duration allowed for temporary signs.

(a) **Allowable Zoning Districts.** A temporary sign is allowed in all zoning districts except for property zoned R-0, R-1, R-1.7/PD, R-1.5, R-2 or DSP Blocks 8 through 12 unless otherwise permitted herein.

(b) **Location.** No temporary sign display shall be permitted to extend beyond the property line of the applicant or into any public right-of-way. No temporary sign shall be displayed in the corner vision triangle unless less than three (3) ft. in height.

(c) **Permit Required.** Permits are required for all temporary signs except for civic event signs, grand opening signs, construction project signs, garage sale signs, produce stand signs, window signs, real estate signs, open house directional signs, temporary unenclosed or appurtenant use signs and unenclosed accessory use signs. Ground sign sleeves in association with a grand opening may be approved for longer than thirty (30) days with approval of a temporary sign permit.

(d) **Permit Application Requirements.** Temporary sign permits may be required according to the provisions below and shall be issued to either the property owner or the business representative. The applicant for the permit shall provide a description of each proposed display and must obtain approval by the director of community development. The director may impose other reasonable conditions beyond what is described in applicable sections as may be deemed in the public interest.

(e) **Denial of Permit.** A permit shall be denied at the discretion of the director of community development if there is a history of temporary sign code violations on the site.

(f) Duration of Display, Number of Signs and Permit Requirements Based on Use.

(1) **Business Promotion (Enclosed Uses).** A maximum of two (2) of any of the following may be displayed for ninety (90) days in a calendar year with a temporary sign permit: banner, balloons, bounce house or pennants/ribbons/streamers. For shopping centers with more than six (6) tenants, a total of four (4) temporary signs may be permitted at a given time. These regulations are only for events that do not qualify as another type of temporary sign described in this section.

(2) **Business Promotion (Permanent Unenclosed Uses such as Autodealers, Plant Nurseries, etc).** A maximum of two (2) of any of the following may be displayed for one hundred and twenty (120) days in a calendar year with a temporary sign permit: banner, balloons, bounce house or pennants/ribbons/streamers. These regulations are only for events that do not qualify as another type of temporary sign described in this section.

(3) **Civic Event Sign.** A civic event sign may consist of a banner, balloon, or pennants/ribbons/streamers. No permit is required provided that the following provisions are met:

(i) If the event is sponsored or co-sponsored by the city, one (1) sign per lot may be displayed on property owned by the city and on individual private properties, including properties other than the site of the event being advertised with the consent of the owner or operator; or,

(ii) For events not sponsored or co-sponsored by the city, one (1) sign may be located on the site of the event advertised, with the consent of the owner or operator.

(4) **Construction Project.** A construction project sign may consist of a banner or temporary ground sign. A maximum of two (2) construction project signs may be displayed per street frontage without a permit provided that the following provisions are met:

(i) They do not exceed forty (40) square feet in area per face, or, if only one sign, does not exceed eighty square feet in area per face.

(ii) Does not exceed ten (10) feet in height as measured from the ground and does not extend into a required corner of driveway vision triangle.

(iii) Shall not be displayed until either the necessary land use permits have been obtained, or building permit applications have been filed with the city.

(iv) Shall not be displayed longer than ninety (90) days after completion of the last building within a development.

(v) A construction project sign that exceeds these requirements is prohibited.

(5) **Grand Opening.** A maximum of three (3) of any of the following may be displayed for thirty consecutive days in association with a grand opening: ground sign sleeve, banner, balloons, large inflatable object, bounce house or pennants/ribbons/streamers. No permit is required for grand openings.

(6) **Open House Directional Sign.** An open house directional sign may consist of a portable sign (a-frame). Balloons are not permitted to be attached to the sign. A open house directional sign may be placed upon privately owned property in any zoning district without a permit, provided the following conditions are met:

(i) The sign shall not exceed three square feet in area or be taller than three feet in height.

(ii) The sign shall not be displayed except between the hours of nine a.m. and seven p.m. of the same day

(a) The sign may not be displayed on the portion of the public right-of-way that is used for pedestrian or vehicular traffic or movement, or for any other public purpose requiring physical use of the right-of-way;

(iii) An open house directional sign that does not meet these requirements is prohibited.

(7) **Produce Stand Sign.** Produce stand signs may consist of a banner or temporary ground sign without a permit provided the following provisions are met:

(i) Does not exceed forty (40) square feet in area per sign face in nonresidential zoning districts; or

(ii) Does not exceed twenty (20) square feet in area per sign face in residential zoning districts.

(iii) A produce stand sign that does not meet these requirements is prohibited.

(8) **Real Estate Sign.** A real estate sign shall consist of a banner or temporary ground sign and may be located in any zoning district. Any real estate sign that does not meet the following requirements is prohibited.

(i) Real estate signs advertising developed residential property for sale or lease do not require a permit provided the following provisions are met:

(a) Each sign face does not exceed twenty (20) square feet in area per sign face or forty (40) square feet in total sign area;

(b) There is a maximum of one (1) such sign per street frontage; and

(c) For a temporary ground sign, it must not exceed ~~three (3)~~six (6) feet in height and may not extend into a required corner of driveway vision triangle.

(d) Such signs are removed within ten (10) days after the advertised property has been sold (defined as close of escrow), rented, ~~or~~ leased or removed for market.

(ii) Real estate signs advertising developed nonresidential property or vacant, undeveloped real property for sale or lease do not require a permit provided that the following provisions are met:

(a) Each sign face does not exceed forty (40) square feet in area or eighty (80) square feet of total sign area;

(b) There is a maximum of one (1) sign face per street frontage; and

(c) Such signs are removed within ten (10) days after the property has been sold (defined as close of escrow), rented or leased.

(iii) A real estate sign that does not meet these requirements is prohibited.

SECTION 9. SECTION 19.48.010 AMENDED. Section 19.48.010 of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.48.010 Purpose. This chapter establishes setback standards and processing requirements for fences in all zoning districts, distances between buildings and extensions into yards.

SECTION 10. SECTION 19.48.020 AMENDED. Section 19.48.020 of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.48.020 General fence requirements.

(1) Prohibited Materials. It is unlawful to erect any electrically charged fence or any fence composed of barbed wire, razor wire or other material which is designed to cause injury upon contact on or adjacent to any residential use regardless of the underlying zoning. Chain link fences may not be constructed after January 1, 2010 in the front or reducible front yard of residential uses and residential zoning districts.

(2) Measurement of Fence Height. Fence height in the rear and sideyard (not located on a street) is measured from the highest adjoining grade to the highest point of the fence. Fence height in the front and reducible front yard is measured from the top of curb, or street if there is no curb to the highest point of the fence.

(3) Vision Triangles. All fences must meet driveway vision triangle and corner vision triangle requirements.

(4) Fences in the Public Right of Way. Fences or walls may be built to the existing sidewalk, or if there is a monolithic sidewalk or if there are no sidewalks, to the existing property line; however, nothing in this section shall prohibit the city from exercising its rights pursuant to existing public rights-of-way or easements, and nothing in this section shall be construed as a waiver by the city of its rights thereto. Further, nothing in this section shall be construed as establishing any responsibility on the part of the city for any fence or wall, or portion thereof, which is constructed within the public right-of-way or easement.

(5) Property Owner Responsibility. It is the responsibility of the affected property owners to determine the desired height for any fence built along a property line.

(6) For fences in the required reducible front yards, fences greater than six (6) feet up to eight (8) feet may be allowed as a matter of right provided they are set back two (2) feet from the property line for every foot in height above six (6) feet. For example, a seven foot high fence must be set back two feet from the property line. Fences that do not meet this setback must obtain approval through a Miscellaneous Plan Permit.

SECTION 11. CHAPTER 19.48 AMENDED. Section 19.48.025 is added to Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.48.025 Fence requirements by location

Table 19.48.025 stipulates the permitting and height requirements for fences.

TABLE 19.48.025

Location	4 ft. or less in Height.	Greater than 4 ft. up to 6 ft. in height.	Greater than 6 ft. up to 8 ft. in height.	Greater than 8 ft. in height.
Front Yard ¹	Permitted	MPP	UP	UP
Reducible Front Yard	Permitted	Permitted	See 19.48.020 (6)	UP
Side or Rear Yard	Permitted	Permitted	Permitted	UP

¹ Includes the area between the face of the building and the street.

SECTION 12. CHAPTER 19.54 AMENDED. Section 19.54.080 of Chapter 19.54 (Wireless Telecommunication Facilities) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.54.080. Telecommunication facilities permits.

The type of permit required for telecommunication facilities, and any applicable exemptions, are set forth in Table 19.54.080.

**Table 19.54.080
Telecommunications Facilities Permits**

Zoning Districts	Exemptions	Miscellaneous Plan Permits	Minor Use Permits	Major Use Permits
Residential, Public Facilities, Commercial and Office R-0 R-1 R-1.5 R-1.7 R-2 R-3 R-4 R-5 RMH C-1 C-2 C-3 C-4 O PF DSP LSP	For all properties: 1) DBS, MMDS or TVBS antennas, provided that: a) Antenna has diameter of 39” or less. b) Antenna is mounted on mast less than 12 ft. high. c) Antenna is not located in a historic district or on a historic building. d) To the extent feasible, the antenna location is not readily visible from public right-of-way. e) Amateur radio antennas not exceeding maximum building height limits of zoning district by 25 feet.	For properties with residential uses: Receive-only parabolic dishes or antenna > 39” in diameter. For properties with nonresidential uses: 1) Ground mounted antenna up to 15 ft. high and 6” in diameter. 2) Façade mounted antenna not readily visible and no projection more than 18” from façade. 3) Roof mounted antenna or antennas mounted on an existing electrical transmission tower that are not readily visible and do not extend above the structure ridgeline.	For properties with nonresidential uses: 1) Façade mounted antennas extending above structure ridgeline or projecting more than 18” from building façade. 2) Roof mounted antennas or antennas mounted on an existing electrical transmission tower which extend up to 15 ft. above the structure ridgeline. 3) Any facility or equipment which, when installed, would result in 2 or more telecommunications facilities at the same property.	For properties with nonresidential uses: 1) Satellite earth stations. 2) New freestanding facilities including monopoles, lattice towers and other towers up to a maximum of 65 ft. in height. 3) Any facility located in the required side or front yard setbacks. Such facilities must meet design standards. 4) Facilities not otherwise enumerated.

<p>Industrial MS M3 MP-TOD MP-C MP-I</p>	<p>Same as for Residential and Public Facilities</p>	<p>1) Receive-only parabolic dishes or antennas greater than 39" in diameter. 2) Ground mounted antennas not exceeding 15 ft. in height and 6" in diameter. 3) Façade mounted antennas extending above the structure ridgeline or projecting more than 18" from the building façade. 4) Roof mounted antennas or antennas mounted on an existing electrical transmission tower extending up to 15 ft. above the structure ridgeline. 4) Any facility or equipment which, when installed, would result in 2 or more telecommunications facilities at the same property. 5) Monopoles, lattice towers or other towers up to 65 ft., if located more than 1,000 ft. from the right-of-way of a freeway, expressway or arterial street. 6) Antennas mounted on an existing electrical transmission tower.</p>	<p>2) Roof mounted antennas or antennas mounted on an existing electrical transmission tower extending more than 15 ft. above the structure ridgeline. 3) Monopoles, lattice towers or other towers > 65 ft. but < 90 ft. high, and located more than 1,000 ft. from the right-of-way of a freeway, expressway or arterial street.</p>	<p>1) Satellite earth stations. 2) Monopoles, lattice towers or other towers > 65 ft. but < 90 ft. high, which is located less than 1,000 ft. from the right-of-way of a freeway, expressway or arterial street. 4) Monopoles, lattice towers or other towers > 90 ft. high. 5) Facilities or equipment located in the front or side yard setbacks of properties not in residential use. 6) Freestanding facilities include towers, lattice towers and monopoles which will be located within 1,000 feet of another freestanding facility. 8) Facilities not otherwise enumerated.</p>
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SECTION 13. SECTION 19.54.120 AMENDED. Section 19.54.120 of Chapter 19.54 (Wireless Telecommunication Facilities) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.54.120. Permit review, renewal and revocation procedures.

(a) The city finds that the technology associated with telecommunication equipment is subject to rapid changes and upgrades as a result of industry competition and customer demands, and anticipates the telecommunication antennas and related equipment with reduced visual impacts will be available from time to time with comparable or improved coverage and capacity capabilities. The city further finds that it is in the interest of the public health, safety and welfare that telecommunication providers be required to replace older facilities with newer equipment of equal or greater capacity and reduced visual impacts as technological improvements become available. Before January 31 of each even numbered year following the issuance of any permit authorizing establishment of a wireless telecommunication facility, an authorized representative for each wireless carrier providing service in the City of Sunnyvale shall provide written certification to the City executed under penalty of perjury that (i) each facility is being operated in accordance with the approved local and federal permits and includes test results that confirm the facility meets city noise requirements and RF emissions requirements; (ii) each facility complies with the then-current general and design standards and is in compliance with the approved plans; (iii) whether the facility is currently being used by the owner or operator; and (iv) the basic contact and site information supplied by the owner or operator is current.

(b) Every owner or operator of a wireless telecommunication facility shall renew the facility permit at least every ten (10) years from the date of initial approval. If a permit or other entitlement for use is not renewed, it shall automatically become null and void without notice or hearing ten (10) years after it is issued, or upon cessation of use for more than a year and a day, whichever comes first. Unless a new use permit or entitlement of use is issued, within one hundred twenty (120) days after a permit becomes null and void all improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within one hundred eighty (180) days of nonrenewal or abandonment.

(c) At any time, the director of community development may initiate proceedings to revoke a permit issued pursuant to this chapter. Grounds for revocation shall be limited to a finding that the owner or operator has abandoned the facility, the facility is no longer in compliance with either the general requirements or design standards of this chapter and the owner or operator has failed to bring the facility into compliance within one hundred eighty (180) days after a notice has been sent by the director of community development requiring the facility to be brought into compliance, the facility is no longer in compliance with applicable FCC or FAA regulations, the use is no longer permitted in the zoning district in which it is located, the facility has not been upgraded to reduce or minimize its impact to the extent reasonably permitted by the technology available at the time of renewal, or if the director determines that revocation would be in the best interests of the public health, safety or welfare. Upon making a determination that the permit should be revoked, the director may, at his or her discretion, issue a compliance order pursuant to Chapter 1.06 or initiate a nuisance abatement action pursuant to Chapter 9.26 of this code.

SECTION 14. SECTION 19.54.130 AMENDED. Section 19.54.130 of Chapter 19.54 (Wireless Telecommunication Facilities) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.54.130. Indemnity and liability for damages..

(a) [Text unchanged.]

(b) Facility lessors shall be strictly liable for any and all sudden and accidental pollution and gradual pollution resulting from their use within the city. This liability shall include cleanup, intentional injury or damage to persons or property. Additionally, lessors shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes materials to be recycled, reconditioned or reclaimed.

(c) [Text unchanged.]

SECTION 15. SECTION 19.88.020 AMENDED. Section 19.88.020 of Chapter 19.88 (Use Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.88.020. Authority and types of permits.

Authority for action on a use permit shall be vested as follows:

(a) Minor use permit determined by the director of community development for:

(1) Projects, structures or activities determined to pose no significant land use consequences;

(2) Those uses determined to be categorically exempt pursuant to the terms of the California Environmental Quality Act;

(3) Unenclosed accessory uses when otherwise required under Title 19.

(b) Major use permit determined by the planning commission for:

(1) All applications for a use permit other than those determined to be minor permits or for minor permits that are determined by the director of community development to require more extensive community participation.

(2) Floor area ratio which would otherwise meet the maximum of thirty-five percent except that floor area occupied by showers and/or dressing rooms provided for use by bicycle commuters increases the total floor area ratio over forty percent. This FAR bonus over thirty-five percent shall only be allowed for bicycle related facilities;

(3) Large family day care homes requesting a waiver that the facility is located closer than three hundred feet to a similar use.

SECTION 16. SECTION 19.90.020 AMENDED. SECTION 19.90.020 OF CHAPTER 19.90 (Special Development Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code, is hereby amended to read as follows:

19.90.020. Authority and types of permits.

Authority for approval of a special development permit shall be vested as follows:

(a) Minor special development permit, determined by the director of community development for:

(1) Projects, structures or activities determined to pose no significant land use consequences;

(2) Those uses determined to be categorically exempt pursuant to the terms of the California Environmental Quality Act, except exemptions based on Categorical Exemption Classification 32;

(3) Waiver of utility undergrounding requirements in combining district zones;

(4) Change in use of any landmark or landmark district;

(5) Multiple residential use of a landmark or in a landmark district;

(6) Automobile service stations that add or include the sale of groceries and/or beer and wine upon making the additional findings in Sections 19.98.020 (j) and (k).

(b) Major special development permit, determined by the planning commission for all applications for a special development permit other than those determined to be minor permits or for minor permits that are determined by the director of community development to require more extensive community participation.

SECTION 17. 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 18. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b) that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is an action that can be seen with certainty that there is no possibility that there will be a significant effect on the environment.

SECTION 19. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 20. 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 October 27, 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