

ORDINANCE NO. 2907-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 19.12 (DEFINITIONS), 19.18 (RESIDENTIAL ZONING DISTRICTS), 19.28 (DOWNTOWN SPECIFIC PLAN DISTRICT), 19.34 (FRONT, SIDE AND REAR YARDS), 19.40 (ACCESSORY UTILITY BUILDINGS), 19.42 (OPERATING STANDARDS), 19.48 (FENCES, DISTANCES BETWEEN BUILDINGS AND EXTENSIONS INTO YARDS), 19.68 (MOBILE AND ACCESSORY LIVING UNITS), 19.82 (MISCELLANEOUS PLAN PERMIT), AND 19.98 (GENERAL PROCEDURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO ACCESSORY STRUCTURES—SHEDS

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

SECTION 1. SECTION 19.12.020 AMENDED. Section 19.12.020 ("A") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.020. "A"

(1) "Accessory structure" means a detached subordinate structure, with or without a foundation, the use of which is incidental to that of the main building or to the use of the land on the same lot. Types of accessory structures include:

(a) Detached habitable spaces. An accessory structure which is detached from the main structure and meets the minimum requirements of the building code for human occupancy. For the purposes of this section, detached habitable spaces do not have cooking and/or eating facilities and may not qualify as accessory living units. If a detached habitable space has cooking and/or eating facilities, it is regulated as an accessory living unit.

(b) Detached required parking. An accessory structure which is detached from the main structure and is designed for, devoted to, or intended to meet the parking requirements for the property. Garages or carports that are not intended to meet required parking are classified as utility buildings as defined herein.

(c) Open garden feature. An accessory structure which does not have solid walls, is less than 50% covered, and is primarily intended as a decorative garden feature. Open garden features typically include arbors and trellises. Garden features which are 50% covered or more are classified as utility buildings as defined herein.

(d) Open outdoor equipment. Accessory equipment or structures which are not roofed, do not have solid walls and are primarily intended for recreation or outdoor cooking. Outdoor equipment may include play structures such as swings, trampolines, and jungle gyms, outdoor fireplaces or accessory cooking areas such as barbecues and ovens. Play houses and other enclosed equipment is classified as utility buildings as defined herein.

(e) Temporary Utility Tents. These structures are built with lightweight poles, typically plastic or aluminum, that are covered with a tarp or other similar temporary materials. They may be freestanding or embedded into the ground. Temporary utility tents include car tents, vehicle awnings, and other similar types of covers and are intended to cover vehicles or other types of storage. Temporary utility tents may not be installed for longer than 90 days in a one-year period.

(f) Utility Building. An accessory structure which cannot be categorized as detached required parking, detached habitable space, open garden feature, open outdoor equipment or temporary utility tent. Utility buildings include detached patio covers, tool sheds, storage sheds, workshops, greenhouses, animal shelters, gazebos, enclosed play houses, and other similar uses.

(2)—(3) [Text unchanged]

(5)—(18) [Renumbered (4) – (17) consecutively; text unchanged]

SECTION 2. SECTION 19.12.170 AMENDED. Section 19.12.170 ("P") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.170. "P"

(1)—(4) [Text unchanged.]

(5) "Portable storage unit" means any type of portable unit including, but not limited to, sheds, cargo containers or truck trailers not designed for human occupancy, and used exclusively for storage or housing of mechanical equipment. Portable storage unit does not include emergency shelter containers, hazardous materials storage facilities or accessory structures.

(6)—(14) [Text unchanged.]

SECTION 3. SECTION 19.18.030 AMENDED. Section 19.18.030 (Permitted, conditionally permitted and prohibited uses in residential zones) of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.030. Permitted, conditionally permitted and prohibited uses in residential zones.

(a) Table 19.18.030 sets forth those uses which are permitted, conditionally permitted, and prohibited in residential zoning districts, and the type of approval a use requires.

(b) It is a violation of this chapter to:

(1) Engage in a use that is conditional without complying with the imposed conditions;

(2) Engage in a prohibited use;

(3) Engage in a use requiring a miscellaneous plan permit, use permit or special development permit without obtaining the required permit.

TABLE 19.18.030

Permitted, Conditionally Permitted and Prohibited Uses in Residential Zones

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

- P** = Permitted use
- MPP** = Miscellaneous Plan Permit required
- UP** = Use Permit required
- SDP** = Special Development Permit required
- N** = Not permitted, prohibited

RESIDENTIAL ZONES	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1. Residential								
A. Single-family dwelling	P	P	SDP	P	UP	UP	UP	P ¹
B. – G. [Text unchanged.]								
2. – 4. [Text unchanged.]								
5. Accessory Uses								
A. Accessory living units	MPP	N	N	MPP ³	N	N	N	N
B. Accessory structures	See Chapter 19.40	See Chapter 19.40	See Chapter 19.40	See Chapter 19.40	MPP ⁵	MPP ⁵	MPP ⁵	MPP ⁵
C. Retail, if incidental to other permitted uses and combined with residential use	N	N	N	N	UP	UP	UP	UP
D. Storage or parking of commercial, industrial or public utility vehicles	N	N	N	N	N	N	N	N
6. [Text unchanged.]								
7. Other Uses								
A. – I. [Text unchanged.]								
J. Storage of materials or equipment between the face of the main building and a street-unless fully screened from view ⁴	N	N	N	N	N	N	N	N
K. Any use which is obnoxious, offensive or creates a nuisance	N	N	N	N	N	N	N	N
L. Automobile/vehicle repair ⁶	N	N	N	N	N	N	N	N

¹ For use by owner and/or operator only.

² For use by mobile home park occupants only.

³ Only in conjunction with a single family dwelling unit.

⁴ 5 – 7 [Text unchanged; renumber 4 – 6]

SECTION 4. SECTION 19.28.060 AMENDED. Section 19.28.060 (Single-family uses and structures) of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.28.060. Single-family uses and structures.

(a) – (b) [Text unchanged.]

(c) Single-family dwellings and accessory structures must comply with applicable development standards for the R-0 District.

SECTION 5. TABLE 19.28.080 AMENDED. Table 19.28.080 (Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks) of Chapter 19.28 (Downtown Specific Plan Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.080

Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks

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

P = Permitted use

SDP = Special development permit required

MPP = Miscellaneous plan permit required

N = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16	6, 10a	8, 9, 10, 11, 12 and 17	8a	8b, 9a
1. Residential					
A. Single-family dwelling on an existing, legally created lot	P	P	P	P	P
B. – G. [Text unchanged.]					
2. Education, Recreation, and Places of Assembly					
A. – F. [Text unchanged.]					
G. Places of Assembly – Community Serving	SDP	SDP	SDP	SDP	SDP
H. Card Rooms	N	N	N	N	N
3. [Text unchanged.]					
4. Accessory Uses					
A. Accessory living units	SDP	SDP	SDP	SDP	SDP
B. Accessory structures	MPP	MPP	See Chapter 19.40	See Chapter 19.40	See Chapter 19.40
C. – D. [Text unchanged.]					
5. – 6. [Text unchanged.]					

¹ Within an existing building.

² Subject to provisions of Chapter 9.41.

³ Subject to provisions of Section 19.18.050.

SECTION 6. SECTION 19.34.100 AMENDED. Section 19.34.100 (Side yards—Modifications—When allowed) of Chapter 19.34 (Front, Side and Rear Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.34.100. Side yards—Modifications—When allowed.

(a) In an R-4 zoning district, when a single-family dwelling is constructed on a legally created lot, the required side yards applicable to the R-0 zoning district shall apply. When a two-family dwelling structure is constructed on a legally created lot, the required side yards applicable to the R-2 zoning district shall apply.

(b) In any residential zoning district where two buildings are located or planned for one lot or parcel, the required minimum and total side yards for each building may be calculated separately, so long as such separate side yards do not cross one another. If the line of the front face of one building extending for the full width of the lot overlaps the line of the rear face of the other building, minimum and total side yard requirements shall apply as if the two buildings were one building. The modifications of side yards permitted by this section shall not apply to accessory structures which are regulated by Chapter 19.40.

SECTION 7. CHAPTER 19.40 AMENDED. Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.40.

ACCESSORY STRUCTURES

19.40.010. Purpose.

19.40.020. General requirements.

19.40.030. Permit requirements for accessory structures

19.40.040. Minimum setback requirements for accessory structures

19.40.010. Purpose.

The purpose of this chapter is to regulate and establish standards for accessory structures within R-0, R-1, R-1.5, R-1.7/PD, R-2 residential zoning districts, and DSP Blocks 8 through 12 and Block 17. Accessory structures in other zoning districts are subject to development and permitting requirements for those zoning districts.

19.40.020. General requirements.

(a) Measurement of Area: The area (square footage) of an accessory structure is determined by measuring the floor area exclusive of eaves, overhangs or other projections.

(b) Calculation of Height: The height of an accessory structure shall be determined by measuring the vertical distance from the average finished grade within five feet of the accessory structure, or within five feet of the main building, whichever is less, to the highest point of the accessory building.

(c) Appearance: All accessory structures greater than one hundred twenty square feet shall be compatible in exterior appearance with the principal structure on the premises. Permanent accessory structures are not permitted to be constructed of temporary materials such as tarps, plastic, or aluminum poles. The director of community development is authorized to require modifications to the exterior of such an accessory structure as necessary to achieve a compatible appearance.

(d) Total Lot Coverage and Required Rear Yard Coverage: Detached habitable spaces, detached required parking, and utility buildings are counted toward permitted lot coverage and rear yard coverage (as required in 19.32.020 and 19.48.050). These structures shall not cause lot coverage or rear yard coverage to be exceeded unless otherwise approved by a use permit.

(e) Maximum Height: No accessory structure may exceed 15 ft. in height unless otherwise approved with a use permit.

(f) Maximum Allowable Square Footage: Any single accessory structure or the total area of all accessory structures on a property shall not exceed 450 square feet unless otherwise approved by a use permit. In no event shall the total area of all accessory structures exceed 800 square feet. Legal accessory units as regulated in 19.68 shall be exempt from the maximum allowable square footage for accessory structures.

19.40.030. Permit requirements for accessory structures

Accessory structures greater than 450 square feet are subject to approval of a use permit. Permit requirements for accessory structures 450 square feet or less are described in Table 19.40.030.

**TABLE 19.40.030
Permit Requirements for Accessory Structures Less Than 450 sq. ft.**

Structure Type	Location	
	Front or Reducible Front Yard ¹	All Other Areas Including Side and Rear Yards
Open Garden Feature 8 ft. or less in height Greater than 8 ft. in height up to 15 ft.	No planning permit required MPP with Notice	No planning permit required MPP with Notice
Open Outdoor Equipment, Utility Buildings and Detached Habitable Spaces 8 ft. or less in height Greater than 8 ft. in height up to 15 ft.	Prohibited Prohibited	No planning permit required MPP with Notice
Detached Required Parking Up to 15 ft. in height Greater than 15 ft. in height	MPP with Notice Use Permit	MPP with Notice Use Permit

¹ Includes any areas where the structure is visible between any face of the building and the street.

19.40.040. Minimum setback requirements for accessory structures

Accessory structures greater than 450 square feet must meet zoning district setbacks. Minimum setback requirements for accessory structures 450 square feet or less are described in Table 19.40.040.

**TABLE 19.40.040
Minimum Setback Requirements for Accessory Structures Less Than 450 Sq. Ft.**

Structure Type	Required Setback		
	Front Yard and Reducible Front Yard	Side	Rear Yard
Open Garden Feature Up to 8 ft. in height and up to 120 sq. ft.	0 ft.	0 ft.	0 ft.
Up to 8 ft. in height and more than 120 sq. ft.	20 ft.	Zoning Setback	10 ft.
Greater than 8 ft. in height up to 15 ft.	20 ft.	Zoning Setback	10 ft.

Open Outdoor Equipment, Utility Buildings and Detached Habitable Spaces			
Up to 8 ft. in height and up to 120 sq. ft.	N/A	0 ft.	0 ft.
Up to 8 ft. in height and more than 120 sq. ft.	N/A	Zoning Setback	10 ft.
Greater than 8 ft. in height up to 15 ft.	N/A	Zoning Setback	10 ft.
Detached Required Parking Garages			
Up to 15 ft. in height	20 ft.	Zoning Setback	10 ft.
Greater than 15 ft. in height	20 ft.	Zoning Setback	10 ft.
Temporary Utility Tents up to 15 ft. in height.	20 ft.	Zoning Setback	10 ft.

SECTION 8. SECTION 19.42.010 ADDED. Section 19.42.010 (Operation of home occupations) is hereby added to Chapter 19.42 (Operating Standards) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.42.010. Operation of home occupations.

Home occupations may be conducted in any zoning district with a business license, provided the director of community development has determined that the proposed use shall comply with the following restrictions:

- (a) The home occupation will not change the residential character or appearance of the dwelling unit or mobile home;
- (b) The home occupation shall be restricted to the dwelling area and shall not be conducted in the yard, garage or any accessory structure except detached habitable spaces;
- (c)–(n) [Text unchanged.]

SECTION 9. SECTION 19.48.040 AMENDED. Section 19.48.040 (Distance between main buildings—Exceptions) 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:

19.48.040. Distance between main buildings and accessory structures.

A detached garage or other detached accessory structure shall be located either directly adjacent to the structure or at least 5 ft. away from another accessory structure, accessory living unit or main building.

SECTION 10. SECTION 19.48.050 AMENDED. Section 19.48.050 (Extension of buildings into required rear yards) 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:

19.48.050. Extension of buildings into required rear yards.

Any single story main or accessory structure in any residential zoning district, subject to conformance with maximum structural coverage regulations, may extend ten feet into the required rear yard providing the area of such extension does not exceed twenty-five percent of the required rear yard area.

SECTION 11. SECTION 19.48.060 AMENDED. Section 19.48.060 (Extension of storage structures into required side or rear yards) of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby deleted in its entirety.

SECTION 12. SECTION 19.68.020 AMENDED. Section 19.68.020 (Mobile living units) of Chapter 19.68 (Mobile and Accessory Living Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.68.020. Mobile living units.

The use, occupancy or placement of mobile living units, portable office structures, guard shacks, cargo containers or other portable storage units are permitted only as follows:

(a) – (e) [Text unchanged.]

(f) Portable storage units including cargo containers and sheds, not governed by Sections 19.22.060 (hazardous materials storage facilities) and Chapter 19.40 (accessory structures), in any nonresidential zoning district.

SECTION 13. SECTION 19.82.020 AMENDED. Section 19.82.020 (When requires) of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.020. When required.

(a) General Reviews:

(1) [Text unchanged.]

(2) Additions to residential property within residential zoning districts, including accessory structures as regulated in 19.40, but not including addition of units;

(3) – (30) [Text unchanged.]

(b)–(k) [Text unchanged.]

SECTION 14. SECTION 19.98.040 AMENDED. Section 19.98.040 (Notice Requirements) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.040. Notice requirements.

(a) For design review, miscellaneous plan permits and tree removal permits, the director of community development may take an action without public notice or hearing (except as provided in subsection (f and g) of this section).

(b - f) Text unchanged.

(g) Miscellaneous plan permits for accessory structures require that prior to any action being taken: notice of the pending application shall be given by mail to adjacent property owners, stating that the application is available for review and comment for fourteen calendar days following the date on the notice.

(g)–(l) [Renumbered (h) – (m) consecutively; text unchanged]

SECTION 15. CEQA–NEGATIVE DECLARATION. The City Council hereby determines that the Negative Declaration prepared for this ordinance has been completed in compliance with the requirements of the California Environmental Quality Act (CEQA) and reflects the independent judgment of the City, and finds that adoption of the ordinance will have no significant negative impact on the area's resources, cumulative or otherwise. The Director of Community Development may file a Notice of Determination with the County Clerk pursuant to CEQA guidelines. Any future project that may benefit from these changes will still need to undergo its own environmental review, if required by CEQA, and potential impacts may be determined at that time.

SECTION 16. 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 or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 17. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 18. 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 of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, 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 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